

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16168-2023
Date of decision : 18.01.2024

BALKAR AND ANOTHER
V/S
....PETITIONERS

STATE OF PUNJAB AND ANOTHER
.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sachin Ohri, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Sachin Gupta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioners are seeking quashing of FIR No.93 dated 15.12.2021, registered under Section 420 IPC and Section 13 of the Punjab Travel Professional (Regulation) Act at Police Station Bhaini Miani Khan and all subsequent proceedings arising therefrom on the basis of compromise.

2 It is a case of partial quashing as two of the accused have approached this Court on the basis of compromise arrived at between the parties.

3 On 29.03.2023, the following order was passed by the Coordinate Bench of this Court:-

“Petitioners have filed the present petition seeking quashing of FIR No.93 dated 15.12.2021, under Section 420 of IPC and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014, registered at Police Station Bhaini Miani Khan, District Gurdaspur along with consequent proceedings arising therefrom on the basis of compromise dated 28.02.2023 (Annexure P-3).

It has been submitted by learned counsel for the petitioners that the petitioners before this Court are the parents of co-accused Jagjit Singh and they have no relation with him. He has fairly submitted that fourth accused in the FIR is Manjeet Kaur. He submits that the petitioners have no relation with both the co-accused. However, they have settled the dispute with the complainant and have paid Rs.2.5 lac. He has relied upon the judgment titled as Kulwinder Singh Vs. State of Punjab, RCR 2007 (3) 1052 and submits that prosecution of the petitioners would be nothing but an abuse of the process of the Court.

Notice of motion.

On asking of the Court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of the respondent-State. Mr. Sachin Gupta, Advocate accepts notice on behalf of respondent No.2. He has endorsed the contention raised by learned counsel for the petitioners and has not denied the factum of compromise effected between the parties.

Adjourned to 17.07.2023.

In the meanwhile, both the parties are directed to appear before the concerned trial Court/Illaq Magistrate on 18.04.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case. The trial Court/Illaq Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court.

The State to file status report before the next date of hearing. ”

4 Pursuant to the aforesaid order, report dated 19.04.2023 from Judicial Magistrate 1st Class, Gurdaspur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“I have the honour to submit with respect to the subject cited above that as per the order dated 29.03.2023 passed by Hon'ble Punjab and Haryana High Court, Chandigarh in CRM-M-16168 of 2023 titled as Balkar Singh and others V/S State of Punjab and others" parties were directed to appear before the concerned Trial Court/Illaq Magistrate for recording their statements with regard to the compromise in FIR No. 93 Dated 15 12.2021, under sections 420 IPC & Section 13 of the Punjab Travel Professional (Regulation) Act, 2014, Police Station Bhaini Mian Khan, Distries Gurdaspur

It is submitted that petitioners/accused persons namely Balkar Singh s/o Kundan Singh and Charanjeet Kaur w/o Balkar Singh both residents of Village Pipariya Majra, Post Dundwa, Puranpur, Pilibhit, Uttar Pradesh and complainant party Mukhwinder Singh s/o Santokh Singh resident of Village Alma. Tehsil and District Gurdaspur has appeared before the Court of undersigned and got their statements recorded regarding the compromise arrived between them. Petitioners/accused persons and complainant party present in the Court were asked to show their identity proofs and photocopies of the same were taken on record (photocopies of their identity proofs and statements in original are attached herewith).

It is further submitted that statement of Investigation Officer S.I. Satnam Singh No. 969/Gsp. posted at Police Station Bhaini Mian Khan has also been recorded (original statement of investigating officer is attached herewith).

It is pertinent to mention here that as per statement of Investigation Officer, the present FIR No. 93 Dated 15.12.2021, under sections 420 IPC & Section 13 of the Punjab Travel Professional (Regulation) Act, 2014, Police Station Bhaini Mian Khan, District Gurdaspur was registered against four accused persons/petitioners namely Jagjit Singh, Balkar Singh, Charanjeet Kaur and Manjit Kaur but complainant has effected compromise only with the petitioners/ accused persons namely Balkar Singh and Charanjeet Kaur.

From the statements of the parties and Investigating Officer, it is observed that statements of compromise have been voluntarily suffered by the parties, without any pressure or coercion. It is further submitted that besides the petitioners/accused persons i.e. Balkar Singh and Charanjeet Kaur, there were two co-accused namely Jagjit Singh and Manjit Kaur who were also arrayed in the present FIR. It is also submitted that none of the accused persons were declared proclaimed offender in the Court and no criminal proceedings are pending against the accused persons/petitioners at Police Station Bhaini Mian Khan. The compromise between the parties appears to be genuine. This is for your information and kind perusal.

Submitted please. ”

5 The aforesaid report reveals that there are total four accused persons.

6 Learned counsel for respondent No.2 admits the fact of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the two petitioners are quashed.

7 Similarly, learned State counsel has stated no objection in case the
FIR is quashed based upon the compromise (Annexure P-2).

8 I have heard learned Counsel for the parties and have carefully
gone through the records of the case.

9 This Court and Apex Court has repeatedly dealt with the issue of
exercise of jurisdiction under Section 482 Cr.P.C. to quash proceedings
recognizing compromise between parties in non-compoundable offences in the
cases of ***Gian Singh vs. State of Punjab and another, 2012(10) SCC 303,***
State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688,
Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR
(Criminal) 1052 and Ram Gopal and another vs. State of Madhya Pradesh,
2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided
on 29th of September, 2021). The proposition of law that emerges from the
aforesaid decisions rendered by Apex Court and this Court is :

(a) *Power u/s 482 Cr.P.C. vested with this Court is much wide
and unaffected by Section 320 of the Code.*

(b) *However, wider the power greater the caution.*

(c) *The underlining principle while exercising such power is that
it can be invoked to quash the proceedings recognizing compromise
between the parties in the matters which are overwhelmingly and
predominantly of civil character like commercial transactions or
arising out of matrimonial relationship or family disputes.*

(d) *The said power is not to be exercised in the
prosecutions involving heinous and serious offences of mental
depravity or offences like murder, rape, dacoity etc. as such offences
are not private in nature and have a serious impact on society.*

(e) *Section 482 Cr.P.C. casts duty upon the High Court to
advance interest of justice as well. It is in recognition of this duty
casted upon the High Court, that Apex Court held that the High
Court would not refuse to quash FIR under Section 307 merely
because FIR finds mention thereof. High Court can assess nature of
injuries sustained, whether such injuries inflicted on vital/delicate
parts of the body/nature of weapons used etc.*

(f) *Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.*

(g) *While quashing FIR in non-compoundable offences even which are of private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.*

10 Thus, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that it is a fit case to exercise jurisdiction vested u/s 482 Cr.P.C. to quash the FIR as:-

- (i) *The present matter does not fall within the exceptions as carved out in **Laxmi Narayan's** case (supra) i.e. heinous offence.*
- (ii) *The offences alleged are of private nature.*
- (iii) *The parties have compromised.*
- (iv) *As per the report received the compromise is said to be voluntary in its nature.*
- (v) *Complainant/victim is reported to have entered into compromise on his own volition.*

11 Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, and it is only accused-petitioners who have approached this Court by way of present petition, the present petition is being entertained and allowed *qua* them only.

12 The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as (2018) 12 SCC 391, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court

was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

13 Consequently, the petition is allowed. FIR No.93 dated 15.12.2021, registered under Section 420 IPC and Section 13 of the Punjab Travel Professional (Regulation) Act at Police Station Bhaini Miani Khan, District Gurdaspur and all subsequent proceedings arising therefrom, are, hereby, partially quashed *qua* petitioners.

18.01.2024
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(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No