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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18381-2023

Date of Decision : April 02, 2024

Shingar Mohammad and others

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Lovish Arora, Advocate
for the petitioner(s).

Mr. J.S.Arora, DAG, Punjab.

Mr. Kulbir Singh, Advocate
for respondent Nos.2 to 4.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking quashing of FIR No.123 dated 27.04.2019 registered under Sections 307, 353, 186, 323, 341, 148 and 149 of IPC, 1860 (Section 307 IPC deleted and Sections 324, 332 and 452 IPC added later on) at Police Station Sohana, District SAS Nagar, Mohali and all consequent proceedings arising therefrom on the basis of compromise dated 29.03.2023 (Annexure P-2).

2 On 17.04.2023, the following order was passed:

“Notice of motion.

Mr.Arun Luthra, DAG, Punjab and Mr.Kulbir Singh, Advocate, accept notice on behalf of respondent No.1 and respondents No.2 to 4 respectively.

Learned counsel for the petitioners undertakes to

supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.123 dated 27.04.2019 registered under Sections 307, 353, 186, 323, 341, 148 and 149 IPC (Section 307 IPC deleted and Sections 324, 332 and 452 IPC added later on) at Police Station Sohana, District SAS Nagar, Mohali on the strength of a written compromise dated 29.03.2023 (Annexure P-2) entered into between the parties.

The petitioners as also respondents No.2 to 4 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 27.04.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against then.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 10.08.2023.”

3 Pursuant to the aforesaid order, report dated 05.05.2023 from Judicial Magistrate 1st Class, SAS Nagar, Mohali has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that in compliance with the orders of the Hon'ble High Court dated 17.04.2023, passed in CRM-M-18381-2023 complainant ASI Om Parkash and accused

persons namely Gurpreet Singh, Shingar Mohammad, Balkar Mohammad and Manmohan Singh and eye witnesses/victims namely Avtar Singh and Sarabjit Singh had appeared before me on 27.04.2023, for suffering their statements. The Investigating Officer SI Naib Singh No.723/PTL, PS Dhakoli, District SAS Nagar also appeared for getting recorded his statement for the purpose of quashing of FIR No.123 dated 27.04.2019 under Sections 307, 323, 353, 341, 148, 149, 186 of IPC (Section 307 IPC deleted and Sections 324, 332 and 452 of IPC added later on), PS Sohana, SAS Nagar.

Accordingly, in compliance of the abovesaid orders, statement of complainant ASI Om Parkash has been recorded who has stated that he has compromised the matter in dispute, vide compromise deed Ex.C1, with the accused persons namely Gurpreet Singh, Shingar Mohammad, Balkar Mohammad and Manmohan Singh out of his free will and without any coercion inducement, threat or pressure. He further stated that he identifies his signatures on Ex.C1 and has no objection if the FIR No.123 dated 27.04.2019 under Sections 323, 324, 332, 353, 341, 148, 149, 186 and 452 of IPC, PS Sohana, SAS Nagar and consequential proceedings are quashed against the accused persons.

Statements of all the accused persons are recorded separately in which they have stated that they have heard the statement of complainant ASI Om Parkash, which is correct. They have compromised the matter in dispute, vide compromise deed Ex C1, with the complainant-ASI Om Parkash voluntarily, out of their free will and consent and without any pressure or inducement from any corner.

Statements of eye witnesses/victims Avtar Singh and Sarabjit Singh have also been recorded in which they have stated that the complainant and the accused persons have compromised the matter in dispute. They identify their signatures on compromise Ex.C1. They have no objection if the present FIR No.123 dated 27.04.2019 under Sections 323, 324, 332, 353, 341, 148, 149, 186 and 452 of IPC, PS Sohana and the consequential proceedings are quashed against the accused persons Gurpreet

Singh, Shingar Mohammad, Balkar Mohammad and Manmohan Singh, in the interest of justice.

The point wise reply of the information as desired by the Hon'ble High court is as follows:-

(1) It is submitted that as per the statements of the complainant and accused persons, the compromise appears to be genuine, voluntarily and without any coercion or undue influence.

(2) It is submitted that there are four accused persons namely Gurpreet Singh, Shingar Mohammad, Balkar Mohammad and Manmohan Singh, who are arrayed as accused in the present FIR and all the accused persons are party to the compromise.

(3) It is submitted that none of the accused persons have been declared as proclaimed offender at any stage of the case as per the statement of IO/SI Naib Singh.

(4) It is submitted that accused persons are involved in following criminal cases as per the statement of IO/SI Naib Singh:-

1. Accused Manmohan Singh:-

Sr. No.	FIR Number/Date	Under Section	Status of FIR	Police Station
1	176/28.10.2012	452, 506, 148, 149 of IPC	Cancellation report dated 13.11.2019	PS, Sohana
2	177/30.10.2012	307, 148, 149 of IPC	Cancellation report dated 11.08.2016	PS, Sohana
3	278/11.11.2015	323, 341, 325, 506, 148, 149 of IPC	Acquitted on dated 26.02.2019	PS, Sohana
4	160/26.06.2016	323, 341, 406, 427, 148, 149 of IPC	Cancellation report dated 12.07.2019	PS, Sohana
5	99/30.03.2020	323, 341, 353, 332, 186, 294, 506 of IPC	Pending	PS, Sohana

2. Accused Gurpreet Singh:-

Sr. No.	FIR Number/Date	Under Section	Status of FIR	Police Station
1.	176/28.10.2012	452, 506, 148, 149 of IPC	Cancellation report dated 13.11.2019	PS, Sohana
2.	177	307, 148, 149 of IPC	Cancellation report dated 11.08.2016	PS, Sohana

3. Accused Shingar Mohammad:-

Sr. No.	FIR Number/Date	Under Section	Status of FIR	Police Station
1	127/17.05.2016	451, 323, 506,34 of IPC	Pending	PS, Sohana

4. Accused Balkar Mohammad:-

Sr. No.	FIR Number/Date	Under Section	Status of FIR	Police Station
1	177/30.10.2012	307, 148, 149 of IPC	Cancellation report dated 11.08.2016	PS,Sohana
2	127/17.05.2016	451, 323, 506, 34 of IPC	Pending	PS, Sohana
3	375/10.11.2020	336, 307, 399, 402, 506 of IPC and 25/54/59 of Arms Act	Pending	PS, Sohana

Copies of statements of complainant ASI Om Parkash, accused persons namely Gurpreet Singh, Shingar Mohammad, Balkar Mohammad, Manmohan Singh, eye witnesses namely Avtar Singh and Sarabjit Singh and Investigating Officer SI Naib Singh, No.723/Patiala are being sent herewith, as desired by the Hon’ble Court.”

4 Learned counsel for respondent Nos.2 to 4 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 petitioners are quashed.

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

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

7 This Court and Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding 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 wiser and is 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.

8 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.*

9 Consequently, the petition is allowed. FIR No.123 dated 27.04.2019 registered under Sections 307, 353, 186, 323, 341, 148 and 149 of IPC, 1860 (Section 307 IPC deleted and Sections 324, 332 and 452 IPC added later on) at Police Station Sohana, District SAS Nagar, Mohali and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

02.04.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No