



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

295

CRM-M-18386-2024
Date of decision : 27.05.2024

Anukul Petitioner

versus

State of Haryana and another Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Namit Khurana, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Amit Sharma, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.270 dated 08.12.2023, registered for offences punishable under Sections 379-B IPC at Police Station Farakpur, District Yamuna Nagar.

2. On 16.04.2024, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.270 dated 08.12.2023, registered for offences punishable under Section 379-B IPC, at Police Station Farakpur, District Yamuna Nagar.

Learned counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 27.05.2024.

On the asking of the Court, Mr. Gaurav Bansal, DAG, Haryana accepts notice on behalf of respondent No.1-State.

Mr. Amit Sharma, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, both the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 29.04.2024. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender?
3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?
4. Whether the accused persons are involved in any other case or not?
5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Duty Magistrate/Illaq Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3. Pursuant to the aforesaid order, report from JMIC, Yamuna Nagar at Jagadhri dated 02.05.2024 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

2. On oral inquiry, both the parties have stated that the matter has been settled voluntary without any coercion, or undue influence. The undersigned also specifically inquired from the complainant about the validity of compromise. He stated that the compromise arrived at in the said matter is voluntarily and without any coercion or undue influence.

3. It is humbly submitted before the Hon’ble High Court of Punjab & Haryana that accused Anukul and complainant Intezar have entered into a compromise. The compromise is genuine, voluntary and without any coercion and undue influence. Thus, the compromise is found to be a valid compromise.

4. It is further submitted that ASI Manoj Kumar, 162, PP. Farakpur, District Yamuna Nagar appeared before the undersigned and got recorded his statement, which is attached herewith as Annexure -C, to the effect that:-

(1) He has conducted investigation of the case.

(2) That there are three accused persons namely (i) Anukul son of Surender Kumar, (ii) Inderjit Singh son of Jaswant Singh (iii) Maninder son of Rachhpal Singh arrayed as accused in the present FIR. The challan was presented against the above named accused Anukul son of Surender Kumar, (ii) Inderjit Singh son of Jaswant Singh (iii) Maninder son of Rachhpal Singh. However, Inderjit Singh son of Jaswant Singh and Maninder son of Rachhpal Singh are not the party to the present petit no. CRM-M-18386-2024.

3. That none of the above named accused is proclaimed offender.

4. That accused Anukul and Inderjit Singh are involved in another FIR bearing no. 275 dated 19.11.2023 under Section 379-B, 34 IPC Farakpur.

5. That there is only one victim/complainant namely Intezar son of Jainu Deen in the present FIR.”

4. The aforesaid report reveals that there are three accused persons namely Anukul, Inderjit Singh and Maninder. However, the compromise has only been effected with accused-petitioner Anukul.

5. Mr. Amit Sharma, Advocate appears for respondent No.2 and 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 petitioner are quashed.

6. Similarly learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. 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, 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) and Mohammad Wajid & anr. Vs. State of U.P. & ors, 2023 AIR

(SC) 3784. 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.*

(h) *When it comes to quashing of FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings.*

9. 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.*

10. 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, namely, Inderjit Singh and Maninder and it is only Anukul who has approached this Court by way of present petition, the present petition is being entertained and allowed qua Anukul only.

11. 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.”

12. Consequently, the petition is allowed. FIR No.270 dated 08.12.2023, registered for offences punishable under Sections 379-B IPC at Police Station Farakpur, District Yamuna Nagar and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

27.05.2024
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No