

138-A

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-18821-2023 (O&M)

Date of Decision: 07.02.2024

Surinder Kaur and another

.. Petitioners

Vs.

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Bhavesh Aggarwal, Advocate for
Mr. Rajdeep Singh, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

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

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SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 0170 dated 23.07.2021 registered at Police Station Moti Nagar, Ludhiana under Sections 461, 447, 448, 506, 427 and 149 IPC and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), which is stated to have been effected between the parties.

2 On 18.04.2023, the following order was passed:

“The petitioners seek quashing of FIR No. 0170 dated 23.07.2021 registered at Police Station Moti Nagar, Ludhiana under Sections 461, 447, 448, 506, 427, 149 IPC on the basis of compromise.

Notice of motion.

Mr. Kamalpreet Bawa, AAG Punjab accepts notice on behalf of respondent No. 1 and waives service.

Mr. Aayush Gupta, Advocate puts in appearance on behalf of respondent No. 2 and waives service.

Learned counsel for respondent No. 2 admits the factum

of compromise.

The parties are directed to appear before the trial Court/Illaq Magistrate on 24.05.2023 at 10.00 a.m. and get their statements recorded and thereafter the trial Court shall transmit its report to this Court regarding genuineness of compromise before the next date of hearing i.e. 18.07.2023.”

3. Pursuant to the aforesaid order, report dated 15.07.2023 from

ld. JMIC, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Further statement of Investigating Officer ASI Sahib Kumar No.251/Ludhiana PS Moti Nagar, Ludhiana has been recorded and as per report of IO, in FIR No. 170 dated 23.07.2021 registered under Sections 461, 447, 448, 506, 427 and 149 of IPC, PS Moti Nagar, three accused persons namely Surinder Kaur, Chamkaur Singh and Karam Singh are nominated in the FIR/police report. Accused namely Surinder Kaur and Chamkaur Singh have entered into compromise out of total three accused. Challan has not been presented in the Court yet. No other proceedings are pending against the accused.

The report is as under:-

From the statements of parties so recorded by me, compromise arrived at between the parties, apparently appears, to be a genuine compromise and is not result of any fraud or misrepresentation and is result of free will of the parties. As per report of Investigating Officer, No other proceedings are pending against the accused.”

4. 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 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 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 wider 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 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 primarily 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. 0170 dated 23.07.2021 registered at Police Station Moti Nagar, Ludhiana under Sections 461, 447, 448, 506, 427 and 149 IPC and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), is, hereby, quashed qua the petitioners.

07.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No