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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-20144-2023 (O&M)

Date of Decision: 07.02.2024

GURMINDER PAL SINGH AND ANOTHER

.. Petitioners

Vs.

STATE OF PUNJAB AND ANOTHER

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Aayush Gupta, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr. Bhavesh Aggarwal, Advocate for
Mr. Rajdeep Singh, Advocate for respondent No.2.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of General Diary No.031 dated 24.07.2021 registered under Sections 354, 294, 323, 447, 448, 506, 148 and 149 of IPC in FIR No.0170 dated 23.07.2021 registered at Police Station Moti Nagar, District Police Commissionerate, Ludhiana, under Sections 461, 447, 448, 506, 427 and 149 of IPC and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-3), which is stated to have been effected between the parties.

2 On 25.04.2023, the following order was passed:

“The petitioners through instant petition, on the basis of compromise, are seeking quashing of General Diary No.031 dated 24.07.2021 registered under Sections 354, 294, 323, 447, 448, 506, 148 and 149 of IPC in FIR No.031 dated 23.07.2021 registered at Police Station Moti Nagar, District Police Commissionerate, Ludhiana, under Sections 461, 447, 448, 506, 427 and 149 of IPC.

Notice of motion.

Mr. Amish Sharma, Asstt. A.G., Punjab, accepts notice on behalf of respondent No. 1-State.

Mr. Rajdeep Chugh, Advocate has filed his memo of appearance on behalf of the complainant/respondent No.2, which is taken on record and seeks time to file his power of attorney.

Adjourned to 18.07.2023.

Parties may appear before learned trial Court/Illaq Magistrate concerned on 24.05.2023 or any other date convenient to said Court and get their statements recorded with regard to compromise. In the event of their statements being recorded, the Court will send copies of same to this Court before next date of hearing alongwith its report :

- i) genuineness and voluntary nature of compromise ;*
- ii) how many persons are nominated in FIR/police report;*
- iii) how many accused/victims have out of total accused/victims have entered into compromise;*
- iv) if there is partial compromise, what is role of the accused;*
- v) what is stage of trial, if accused already convicted, whether appeal is pending in Appellate Court;*
- vi) whether all accused/petitioners are appearing before the Court or are on bail; and*
- vii) whether any other proceeding is pending against the accused/petitioner;*
- viii) nature of injuries i.e. grievous or simple suffered by complainant, relation of complainant with the accused.*

To be heard along with CRM-M-18821-2023.”

3. Pursuant to the aforesaid order, report dated 15.07.2023 from Id. JMIC, Ludhiana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“i) 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;

ii) As per the report of Investigating Officer, there are four persons namely Gurminder Pal Singh, Ravinder Pal Singh, Talwinder Singh and Harbans Singh are nominated in the FIR/police report;

iii) As per the Statement of Investigating Officer, accused

namely Gurminder Pal Singh and Harbans Singh have entered into compromise out of total four accused;

iv) As per the Statement of Investigating Officer, accused Gurminderpal Singh and Harbans Singh had caused beatings to the son of complainant Surinder Kaur as well as also tried to outrage her modesty. Accused persons wanted to grab the property of complainant.

v) Challan has not been presented in the Court yet.

vi) As per the Statement of Investigating Officer, accused Gurminder Pal Singh, Ravinder Pal Singh, Talwinder Singh and Harbans Singh got anticipatory bail vide order dated 06.05.2022 passed by the Court of Sh. Ravdeep Singh Hundal, Learned ASJ, Ludhiana.

vii) As per the Statement of Investigating Officer, no other proceedings are pending against the accused.

viii) As per the Statement of Investigating Officer, complainant Surinder Kaur did not suffer any injury on her person. Complainant Surinder Kaur is the step mother of accused persons.”

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-3).

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.

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(v) *Complainant/victim is reported to have entered into compromise on his own volition*

Consequently, the petition is allowed. General Diary No.031 dated 24.07.2021 registered under Sections 354, 294, 323, 447, 448, 506, 148 and 149 of IPC in FIR No.0170 dated 23.07.2021 registered at Police Station Moti Nagar, District Police Commissionerate, Ludhiana, under Sections 461, 447, 448, 506, 427 and 149 of IPC and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-3), is, hereby, quashed qua the petitioners.

07.02.2024

Jasmine Kaur

(SUMEET GOEL)

JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No