

CRM-M-22171-2023

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-22171-2023

Date of decision: 07.02.2024

Satnam Singh and others

....Petitioners

V/s

State of Punjab and others

....Respondent

CORAM: HON’BLE MR. JUSTICE SUMEET GOEL

Present: Ms. Divya Gulati, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG Punjab.

Mr. Vikrant Vij, Advocate for respondent No.2.

Mr. Sohrab Dhanda, Advocate for respondent No.3.

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.30 dated 01.03.2019 under Sections 363, 366, 34 of IPC, registered at Police Station, Sultanwind, District Amritsar and all consequent proceedings arising therefrom on the basis of compromise (Annexure P-2), which is stated to have been effected between the parties.

2. On 04.05.2023, the following order was passed:

“This is a petition under Section 482 Cr.P.C. seeking quashing of FIR No.30 dated 01.03.2019, registered under Sections 363, 366 and 34 IPC at Police Station Sultanwind, District Amritsar (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise said to have been entered into between the parties dated 16.06.2020 (Annexure P-2).

Notice of motion.

Mr. Jashandeep Singh, Assistant Advocate General, Punjab appears and accepts notice on behalf of respondent No.1-State. Mr. Gursimran Singh Bawa, Advocate, has put in appearance on behalf of respondent No.2/complainant, by filing power of attorney and the same is taken on record.

Let the parties appear before the trial Court/Duty Magistrate on 24.05.2023 or any other date convenient to the Court, for recording their statements with regard to compromise. The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the parties: The trial Court/Duty Magistrate shall also furnish the following information:

- 1. Whether there is any other accused, apart from the petitioners arrayed in this petition.*
- 2. Whether there is any other complainant or affected/aggrieved party, apart from the respondents arrayed in the petition.*
- 3. Whether the parties are involved in any other criminal case.*
- 4. Whether any of the parties has been declared a proclaimed offender.*
- 5. The trial Court/Duty Magistrate shall send his/her report through the Sessions Judge concerned on or before the date fixed, i.e. 28.09.2023.”*

3. Pursuant to the aforesaid order, report dated 03.07.2023 from Judicial Magistrate Ist Class, Amritsar 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 that in compliance to the Order dated 04.05.2023 passed by Hon'ble Punjab & Haryana High Court, Chandigarh in CRM-M No. 22171-2023, the complainant/respondent no.2 Nirmaljit Kaur and respondent no. 3 Priya and accused/petitioner no.1 Satnam Singh, accused/petitioner no.2 Amarjit Kaur and accused/petitioner no.3 Daljeet Singh, appeared before the court of undersigned on 24.05.2023 and their statements regarding compromise have been recorded separately In their statement, complainant/respondent no 2 namely Nirmaljit Kaur stated that FIR No 30 dated 01.03.2019, u/ss 363/366/34 IPC, was registered at Police Station Sultanwind, Amritsar, at her instance against above said accused persons/petitioners and now the matter has been compromised between them. Complainant/respondent no.2 further stated that she does not want to proceed further with the present case against the said persons and she has no objection, if the aforesaid FIR is quashed qua the above said petitioners namely Satnam Singh, Amarjit Kaur and Daljeet Singh The complainant/respondent no.2 further submitted that the compromise is genuine, voluntarily and without any coercion or undue influence and arrived at between them with their free will. She further submitted that there is no other accused in the present FIR except the petitioners. No accused has been declared

proclaimed offender in the present case There is no other complainant except her and respondent no.3 Priya in the present FIR. Similarly. Respondent no.3 namely Priya stated that FIR No. 30 dated 01.03.2019, u/ss 363/366/34 IPC, was registered at Police Station Sultanwind, Amritsar at the instance of Nirmaljit Kaur against above said accused persons/petitioners and now the matter has been compromised between them. The respondent no.3 further stated that she does not want to proceed further with the present case against the said persons and she has no objection, if the aforesaid FIR is quashed qua the above said petitioners namely Satnam Singh, Amarit Kaur and Daljeet Singh. The respondent no 3 further submitted that the compromise is genuine, voluntarily and without any coercion or undue influence and arrived at between them with their free will She further submitted that there is no other accused in the present FIR except the petitioners No accused has been declared proclaimed offender in the present case. There is no other complainant/aggrieved person except her and respondent no. 2 Nirmaljit Kaur in the present FIR. Thereafter, separate statements of above said accused persons namely Satnam Singh, Ainarjt Kaur and Daljeet Singh regarding compromise have also been recorded. They in their statements submitted that the compromise arrived at between them and the complainant/aggrieved person namely Nirmaljit Kaur and Priya with the intervention of respectables for the betterment of the parties and to end the future enmity/conflict between the parties. They also stated that there is no other person arrayed as accused in the present FIR except them. There is no other complainant except the respondent no.2 and 3. They have not been involved in any other criminal case. They have not been declared proclaimed offender in the present case. The compromise is genuine voluntary and out of the free will Both the parties also submitted their identity proofs and they have also been identified by their counsels.

2 It is further submitted that while recording the statements of both the parties, it has been ensured that in the present FIR, the complainant/respondents Nirmaljit Kaur and Priya and accused persons/petitioners Satnam Singh, Amarjt Kaur and Daljeet Singh have appeared before the court. Further, as per their statements, the compromise has been arrived at between them The compromise is genuine, voluntary and without any pressure, being outcome of their free will. Further, as per the statement of complainant/respondent Nirmaljit Kaur and Priya, there is no other accused in the present FIR except the petitioners and there is no other aggrieved person except the respondent

110.2 and 3. Furthermore, as per the statements of accused/petitioners, there is no other person arrayed as accused in the present FIR except them. There is no other complainant/aggrieved person except the complainant/respondents no.2 and 3 Nirmaljit Kaur and Priya. As per the statement, the accused persons/petitioners are not involved in any other criminal case. They have not been declared proclaimed offender in the present case. Copies of the statements of parties are attached for kind perusal”

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 petitioner is 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.30 dated 01.03.2019 under Sections 363, 366, 34 of IPC, registered at Police Station,

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Sultanwind, District Amritsar and all consequent proceedings arising therefrom on the basis of compromise/affidavit (Annexure P-2), is, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 07, 2024
Ajay

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No