

CRM-M-41506-2020

Vishal Bhasin and anr

Versus

State of Punjab and another

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Ms. Neha Jain, Advocate for
Mr. Naresh Kumar, Advocate
for the petitioner(s).

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

Mr. Mandeep S.Dhot, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking
quashing of FIR No.32 dated 09.03.2020 registered under Sections 379
and 411 at Police Station Garhshankar, District Hoshiarpur and all
consequent proceedings arising therefrom on the basis of compromise.

2 On 10.12.2020, the following order was passed:

“By filing this petition, quashing of FIR No 32 dated 09.03.2020 under Sections 379,411 IPC registered at PS Garhshankar, District Hoshiarpur and all other consequent proceedings arising therefrom has been sought on the basis of compromise. Notice of motion.

Mr. Sukhbir Singh, AAG, Punjab accepts notice on behalf of respondent No.1-State of Punjab.

Parties may appear before concerned Illaqa Magistrate/Duty Magistrate on 23.12.2020 or on any other date convenient to the said Court and get their statements recorded with regard to the compromise. The original compromise shall be produced before the said Court. In the event of their statements being recorded, the Court will send copies of the same to this Court before the next date of hearing along with his report:-

i) regarding genuineness and voluntary nature of the compromise;

ii) whether all the accused/petitioners are appearing before the Court or are on bail; and

iii) whether any other proceeding is pending against the accused/petitioners.

Adjourned to 29.01.2021.”

3 Pursuant to the aforesaid order, report dated 04.01.2021 from Sub Divisional Judicial Magistrate, Garhshankar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is submitted that on 23.12.2020, accused/petitioners Vishal Bhasin aged about 26 years s/o Ved Rattan and Sahil aged 24 years s/o Sunil both resident of Rajouri Tehsil and District Jammu and Kashmir appeared before the Court and they were identified by Sh. Harpreet Singh, Advocate. They contended that they have arrived at a compromise with complainant. Respondent/complainant Aftab Hussain aged about 20 years s/o Mohd Ayoub r/o Kotedhera tehsil and District Rajouri, Jammu and Kashmir also appeared with Sh. M.L. Rahanu, Advocate who identified him. Respondent/complainant confirmed the factum of compromise. He stated that he has no objection if the FIR above mentioned is quashed. State of IO/ASI Ravinder Singh was also recorded:-

My report is submitted as under:-

(i) After going through the statements of the parties and on asking the parties, it is crystallized that the compromise has been arrived at

genuinely and is made voluntarily without any pressure or coercion.

(ii) After going through the statements of the parties and of the IO/ASI Ravinder Singh, it precolates that two persons i.e. Vishal Bhasin s/o Ved Rattan and Sahil s/o Sunil both resident of Rajouri tehsil and District Jammu and Kashmir have been arrayed as accused in the FIR and both accused/petitioners are on regular bail in this case.

(iii) The FIR is at stage of investigation and as per statement of IO, no other proceeding is pending against the said two accused/petitioners.”

4 Learned counsel for respondents 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 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.32 dated 09.03.2020 registered under Sections 379 and 411 at Police Station Garhshankar, District Hoshiarpur and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

04.04.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No