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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.24273 of 2023
Date of decision : 28.02.2024

Gurpreet Singh

....Petitioner

Versus

State of Punjab and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. K.S.Brar, Advocate
for the petitioner.

Mr. Harish Mehla, AAG Punjab.

Mr. Rajat Dogra, Advocate
for respondent Nos.2 and 3.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.170 dated 25.11.2022 registered under Sections 308, 336 of IPC and Sections 25 and 27 of the Arms Act registered at Police Station Kulgari, District Ferozepur and all consequent proceedings arising therefrom on the basis of compromise.
2. Statement recorded. Another sum of Rs.1,00,000/- has been made to the respondent No.3. Copy thereof is taken on record.
3. On 20.11.2023 while issuing notice of motion, 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.170 dated 25.11 2022,

registered for offences punishable under Sections 308/336 IPC and Sections 25/27 of Arms Act, at Police Station Kulgari, District Ferozepur.

Learned counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2. He further submits that he will seek instructions as to whether the petitioner is ready to pay further amount of Rs.1.00 lakh.

Notice of motion for 01.02.2024

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Sarthak Jindal, Advocate appears and accepts notice on behalf of respondents No.2 & 3 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 21 12.2023. 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.”

4. Pursuant to the aforesaid order, report dated 18.01.2024 from

Judicial Magistrate 1st Class, Ferozepur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is humbly submitted that in compliance of order dated 20.11.2023, passed by Hon'ble High Court in case CRM-M-24273-2023 (whereby, this Court has been directed to record statements of parties with regard to compromise and to send the report by next date). Complainant/respondents Gurmail Singh son of Bagh Singh resident of Village Malwal Jadid District Ferozepu and Balkar Singh son of Gurmail Singh, resident of House no. 90 Village Malwal Jadid District Ferozepur and accused/petitioner Gurpreet Singh son of Balraj singh, resident of VPO Gobindgarh Tehsil Abohar District Fazilka appeared before this court and suffered their statements.

Complainant/respondents *Gurmail Singh son of Bagh Singh resident of Village Malwal Jadid District Ferozepu and Balkar Singh son of Gurmail Singh, resident of House no. 90 Village Malwal Jadid District Ferozepur has suffered their joint statement that FIR No. 170 dated 25.11.2022 under sections 308,336 of IPC and sections 25.27 of Arms Act police station Kulgari was registered on the statement of complainant/injured respondent no. 2 Gurmail Singh against accused/petitioner Gurpreet Singh son of Balraj singh resident of VPO Gobindgarh Tehsil Abohar District Fazilka. Injured/respondent o. 3 Balkar singh son of Gurmail Singh resident of House no. 90 Village Malwal Jadid District Ferozepur also injured in this case and matter has also been compromised with him. Now the compromise has been effected between them and petitioner/accused in the presence of respectables. Compromise is genuine, voluntary and without any coercion or undue influence. Now there is no grudge against the petitioner. They further stated that they do not want to take any action against the petitioner in the present case. They have no objection if the above mentioned FIR against the above mentioned petitioner be quashed by the Hon'ble Court of Punjab and Haryana at Chandigarh.*

Accused/petitioner *Gurpreet Singh son of Balraj singh, resident of VPO Gobindgarh Tehsil Abohar District Fazilka has suffered statement that he has compromised with the complainant/respondents/injured Gurmail Singh son of Bagh singh and Balkar Singh son of Gurmail Singh. He has read over the complainant/respondents/injured, which is true and correct. He and complainant will remain peacefully in future as per compromise effected between them. The present compromise is genuine,*

voluntary and without any coercion or undue influence.

Kulwant Singh, No.567/FZR, PS Kulgari has suffered statement that he is Investigating Officer in the present FIR No.170 dated 25.11.2022 registered under Sections 308, 336 of IPC and Sections 25/27 of the Arms Act, PS Kulgarhi District Ferozepur. The above mentioned FIR was registered on the statement of complainant Gurmail Singh son of Bagh Singh, resident of village Malwal Jadid, District Ferozepur against unknown persons.

1. There is no person arrayed as accused in the above mentioned FIR as FIR was registered against unknown persons.

2. There is no accused nominated in the present case, so, no question of declaring proclaimed offender arises.

3. FIR was registered against the unknown persons.

4. There is only one complainant/victim Gurmail Singh in the present FIR.

It is furthermore, respectfully submitted that:-

(i) As per statement of 1.0 of this case, there is no person arrayed as accused in the above mentioned FIR as FIR was registered against unknown persons.

(ii) As per statement of IO, there is no accused nominated in the present case, so, no question of declaring proclaimed offender arises.

(iii) The compromise has been effected between the parties, is genuine, voluntary and without any coercion or undue influence.

(iv) As per statement of IO, accused are not involved in any other case.

(v) As per statement of IO of this case, There is only one complainant victim Gurmail Singh in the present FIR.”

5. Learned counsel for respondent Nos.2 and 3 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.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the panchayati compromise (**Annexure P-2**).

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 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.

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. Consequently, the petition is allowed. FIR No.170 dated 25.11.2022 registered under Sections 308, 336 of IPC and Sections 25 and 27 of the Arms Act registered at Police Station Kulgari, District Ferozepur and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

28.02.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No