

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR-2309-2015(O&M)
Date of decision:- 22.02.2024.

Ram Parkash and ors.

...Petitioners

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. K.P.S. Virk, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Parvesh Malik, Advocate
for the complainant.

PANKAJ JAIN, J. (Oral)

1. The present revision petition is preferred against order of conviction dated 20.11.2013 passed by Ld. Judicial Magistrate 1st Class, Kaithal and judgment dated 05.06.2015 passed by Ld. Additional Sessions Judge, Kaithal, whereby appeal preferred by the petitioners has been dismissed.

2. Ld. Counsel for the petitioner relies upon the judgment passed by Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322**, to contend that this Court while exercising jurisdiction under Section 482 Cr.P.C. can quash the FIR and criminal proceedings even at the stage of post-conviction when appeal is pending.

3. In the case **Ram Gopal and another vs. State of Madhya Pradesh** (supra) Apex Court held as under :-

“18. It is now a well crystallized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:

- (i) Nature and effect of the offence on the conscious of the society;*
- (ii) Seriousness of the injury, if any;*
- (iii) Voluntary nature of compromise between the accused and the victim; &*
- (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”*

4. On 22.11.2023, following order was passed:-

“CRM-48850-2023

To be heard with the main case.

CRM-48851 of 2023

This is an application for impleading injured Banti Devi, Satpal as well as the legal representatives of complainant-Prithvi Singh (deceased).

For the reasons recorded, the application is allowed subject to all just exceptions. Banti Devi-injured, Satpal and legal representatives of deceased Prithi Singh are impleaded as newly added respondents as mentioned in para 3 of the application. Amended memo of parties is taken on record. Registry is directed to make necessary correction in the memo of parties.

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Learned counsel representing the petitioners as well as that of complainant are ad-idem that the parties have settled the matter.

Learned counsel for the petitioners further relies upon 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) that even after conviction compromise can be considered.

In view of the above, both the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 22.12.2023. 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.

Adjourned to 22.02.2024.”

5. Pursuant to the aforesaid order, report dated 18.01.2024 from District and Sessions Judge, Kaithal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“POINT NO.1:

3. Regarding Point no. (1), it is submitted that as per the statement of Investigating Officer, six persons were arrayed as accused in the FIR. The accused persons named in the FIR are: Randhir Singh, Raghubir Singh both sons of Ramnath, Rishi Kumar, son of Randhir, Jai Bhagwan son of Chandiya, Ram Prakash and Parveen Kumar and out of these, accused **Ram Prakash and Parveen Kumar have expired**. Above named accused have been convicted by then Learned Predecessor vide judgment and order dated 20.11.2013/21.11.2013. Ram Prakash and Parveen Kumar have expired and their death certificates are Ex.C2 and Ex.C2. Statement of Investigating Officer SI Suresh Kumar is Annexure-

POINT NO.2:

4. Regarding Point No.2, it is submitted that as per report of Investigating Officer Sub-Inspector Suresh Kumar (Annexure-1), no proclamation proceedings against accused are pending in the present case and none of the accused have

been declared as proclaimed person.

POINT NO.3

5. Regarding Point No.3, it is submitted that complainants namely Satpal Singh, son of Hari Singh, Banti wife of Satpal, Nirmala Devi, wife of Prithvi, Ajay and Sanjay Saini, both sons of Prithvi Singh, all residents of Gali No.3, Amargarh Gamri, Kaithal vide their separately recorded statements have stated that compromise (Ex.C1) has been effected between the parties out of their free will and without any coercion or pressure from any corner. Statement of complainants/victims are Annexure R-2. They have stated they have no objection if FIR is quashed. Accused has also stated that compromise is correct and genuine and was effected out of free will of the parties, without any pressure or coercion. Statement of accused are Annexure R-3. In view of the said statements of the parties, the compromise appears to have been effected voluntarily and out of free will. It is submitted that the compromise effected between the parties is genuine.

POINT NO.4:

6. Regarding Point No.4, it is submitted that besides the present case/FIR, there is no other case pending against the accused.

POINT NO.5:

7. Regarding Point No.5, it is submitted that statement of investigating officer SI Suresh Kumar, Belt No.9/KTL was recorded and as per his statement, all the complainants/injured in the present case/FIR are: Satpal, son of Hari Singh, Banti, wife of Satpal, Nirmala Devi, wife of Prithvi Singh and Ajay and Sanjay Saini, sons of Prithvi Singh. Thus, there are five complainants/injured/victim.”

6. Learned counsel for the respondent(s) admits the fact of parties having compromised and state that they have no objection in case the FIR

and all proceedings subsequent thereto against the petitioner(s) are quashed.

7. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 15.08.2023 (Annexure A-4).

8. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

9. 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.

10. 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.*
- (vi) Though the petitioners already stand convicted yet in view of the law laid down by the Apex Court in the case of Ram Gopal and anr. Vs. State of Madhya Pradesh (supra), this Court finds it to be a fit case to exercise jurisdiction under*

Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.”

11. Consequently, the petition is allowed. Order of conviction dated 20.11.2013 passed by Ld. Judicial Magistrate 1st Class, Kaithal and judgment dated 05.06.2015 passed by Ld. Additional Sessions Judge, Kaithal and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner(s).
12. Pending application(s), if any, shall stand disposed off.

(PANKAJ JAIN)
JUDGE

22nd February, 2024
spn

Whether speaking/reasoned : Yes

Whether Reportable : No