

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

281

CRM-M-27437-2023
Date of decision : 31.01.2024

Vikram KapilaPetitioner

Versus

State of U.T. Chandigarh and another ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sidhhant Pandit, Advocate
for the petitioner.

Mr. Ankur Bali, Addl. P.P. UT
assisted by ASI Avtar Singh.

Mr. Rajesh Gupta, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.48, dated 15.02.2018, registered for the offences punishable under Section 420 of IPC at Police Station Sector-36, Chandigarh on the basis of compromise deed dated 23.12.2022 (Annexure P-2).

2. On 01.06.2023, the following order was passed :-

“This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.48 dated 15.02.2018, under Section 420 of IPC (Annexure P-1), registered at Police Station Sector 36, Chandigarh and all other consequential proceedings arising therefrom, on the basis of compromise dated

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23.12.2022 (Annexure P-2) arrived at between the petitioner and respondent No.2 i.e. the complainant.

Notice of motion.

Mr. Ankur Bali, Addl. P.P., for U.T., Chandigarh puts in appearance and accepts notice on behalf of respondent No.1-U.T., Chandigarh and seeks time to file reply, if any.

At this stage, Mr. Rajesh Gupta, Advocate puts in appearance on behalf of respondent No.2 and filed power of attorney in the Court today which is taken on record. Copy of the paper book be supplied during the course of the day.

Learned counsel for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 03.07.2023 for getting their statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial;
- (iii) status/stage of the trial/case;
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;

(v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 06.10.2023.”

3. However, mother of the complainant and one of the victims did not appear. Vide order dated 15.01.2024, mother of the complainant was also directed to appear before the trial Court/Area Magistrate on 24.01.2024 to record her statement.

4. Pursuant to the aforesaid order, report from Addl. Chief Judicial Magistrate, Chandigarh dated 24.01.2024 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

It is submitted that there are two complainants in the present case namely Sutantar Bir Singh and his mother Ms. Jasbir Kaur Gill, however, only the statement of Sutantar Bir Singh and the accused Vikram Kapila, regarding compromise between them, were recorded on 3.7.2023, as co-complainant Ms. Jasbir Singh had not turned up in the court on the said date, and the requisite report regarding compromise between Sutantar Bir Singh Gill and the accused was sent to Hon'ble High Court by this court vide letter No.55 of 31.7.2023, along with copies of statements of the parties and of IO.

Now, on 24.1.2024, co-complainant Smt. Jasbir Kaur Gill along with her counsel came

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present in the court and suffered a separate statement that the matter has been compromised with the accused vide compromise deed dated 23.12.2022, voluntarily, without any kind of undue pressure or coercion, and out of her free Will. She further stated that she along with his son namely Sutantar Bir Singh Gill were the only aggrieved persons in the present FIR and that the only accused Vikram Kapila is facing trial of the present case and no accused has been declared proclaimed offender in the present case. She further stated that she has no objection if the present FIR is quashed. She further stated that she along with his son have received the entire settled amount of Rs.20.00 lakh from the accused. She placed on the record copy of his Aadhar card as Mark-X.

Now, in continuation of the earlier report of the undersigned vide letter bearing no.55 of 2023, it is humbly submitted that the compromise has been effected between the parties voluntarily. out of free will and without any kind of undue pressure or coercion.”

5. Counsel appearing 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 are quashed.

6. Similarly State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard 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 Cr.P.C. to quash proceedings recognizing compromise between the 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 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.

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(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.48, dated 15.02.2018, registered for the offences punishable under Section 420 of IPC at Police Station Sector-36, Chandigarh and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

31.01.2024
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No