

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

264

CRM-M-31359-2022 (O&M)
Date of Decision : 25.01.2024

PUNIT SHARMA

.....Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Raghav Sharma, Advocate for the petitioner.

Mr. Ashok Kumar Sehrawat, DAG, Haryana.

Mr. Kashish Sahni, Advocate for
Mr. Abhivadya Sood, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.686 dated 19.12.2020 registered for the offences punishable under Section 420, 467, 468 and 471 IPC at Police Station Sadar Thanesar, District Kurukshetra (Annexure P-1) on the basis of compromise.

2. On 09.05.2023, the following order was passed :-

“Present petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No. 686 dated 19.12.2020 registered under Sections 420, 467, 468, 471 of the Indian Penal Code, 1860 at Police Station Sadar Thanesar, District Kurukshetra and all subsequent proceedings arising therefrom on the basis of compromise(Annexure P-3).

Learned counsel for the petitioner submits that the dispute has been amicably settled between the private parties in terms of the compromise (Annexure P-3).

In view of the above, parties are directed to appear before the Illaqa Magistrate/trial Court to get their

statement(s) recorded with regard to compromise/settlement within a period of 30 days from today.

The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arraigned as accused in 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 and apprise this Court about the stage of proceedings?*

The report of the Illaqa Magistrate/trial Court be awaited for 19.07.2023.

Status report/reply on behalf of State be also filed on the adjourned date.”

3. Pursuant to the aforesaid order, report from Additional Chief Judicial Magistrate, Kurukshetra dated 12.01.2024 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 of order dated 05.01.2024 passed by Hon'ble Mr. Justice Pankaj Jain, Judge, Punjab and Haryana High Court, Chandigarh in CRM-49499-2023 in CRM-M-31359- 2022 titled Punit Sharma Vs. State of Haryana and another, the parties have appeared before undersigned to get their statements recorded about the compromise stated to be executed between the parties.

It is further submitted that complainant of the case

namely Kanwar Pal son of Som Singh, resident of Nigdhu, District Karnal, has made statement that the matter has been compromised with the accused. The said compromise has been effected without any fear, pressure or greed.

The accused namely Punit Kumar Sharma has also appeared and made a statement that he has compromised the matter with the complainant. The said compromise has been effected without any fear, pressure or greed. The matter has been compromised with the complainant and in view of compromise the case may be disposed.

The Investigating Officer SI Shamsher Singh No.4/CP also appeared and his statement was also recorded who has stated that in the present FIR only one accused namely Punit Sharma son of Purshotam Dass was arrayed. In the present case, there is only one complainant namely Kanwar Pal son of Som Singh. None of accused is proclaimed offender and the accused is involved in four other criminal cases.

The report as desired is following:-

- 1). In the present FIR one accused namely Punit Sharma son of Purshotar Dass has been arrayed as accused.*
- 2) No accused is absconding/ proclaimed offender in this case.*
- 3) The compromise is genuine, voluntary, without any coercion or undue influence.*
- 4) Accused Punit Sharma is also involved in four other cases, a) FIR No.337 of 2023 under Sections 323, 427, 506, 34 IPC, P.S. Sadar Thanesar, b) FIR No.549 of 2023 under Sections 406, 420 IPC, P.S. Sadar Thanesar, c) FIR No. 125 of 2023 under Sections 406, 420, 120-B IPC, P.S. Jhansa and d) FIR No.464 of 2023 under Sections 406, 420 of IPC, P.S. Sadar Thanesar.*
- 5) The statement of Investigating Officer SI Shamsher Singh No.4/CP. P.S. Sadar Thanesar has been recorded as*

per which there is only one victim/complainant namely Kanwar Pal Singh son of Som Singh. The challan (report under Section 173 Cr.P.C.) has been filed in Court and case is fixed for supplying copy of challan to accused.”

4. Ld. 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.

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

6. I have heard Ld. 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 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.

(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.686 dated 19.12.2020 registered for the offences punishable under Section 420, 467, 468 and 471 IPC at Police Station Sadar Thanesar, District Kurukshetra (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

25.01.2024
Deepak Patwal

(PANKAJ JAIN)
JUDGE

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