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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 16.02.2024.

1.

CRM-M No.28506 of 2023

Jagmohan and anr.

Versus

...Petitioners

State of Haryana and anr.

....Respondents

2.

CRM-M No.29563 of 2023

Anoj Kumar and ors.

Versus

...Petitioners

State of Haryana and ors.

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Ms. Alisha Soni, Advocate
for the petitioners in CRM-M-28506-2023
and respondent No.2 to 4 in CRM-M-29563-2023.

Mr. Vipin Kumar, Advocate
for the petitioner in CRM-M-29563-2023
and respondent Nos.2 to 8 in CRM-M-28506-2023

Mr. A.K.Sehrawat, DAG Haryana.

PANKAJ JAIN, J. (ORAL)

1.
- This order shall dispose off above mentioned two petitions.
2.
- Prayer in these petitions is for quashing of FIR No.317 dated 17.11.2014 (Annexure P-1) registered under Sections 148, 323, 341 and 506 read with Section 149 of IPC as well as judgment of conviction dated 16.03.2022 and order of quantum of sentence dated 23.03.2022 (Annexure P-2 and P-3 respectively) passed from the Court of Judicial Magsitrate 1st

Class, Narwana, Jind registered at Police Station Saddar, Narwana, Jind.

3. Ld. Counsel for the petitioners 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.

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

“18. It is now a well crystalized 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.”

5. While issuing notice of motion on 08.12.2023, following order was passed:-

“Learned counsel for the petitioners as well as private respondents have submitted that matter has been compromised between the parties.

In view of the above, the parties are directed to appear before the Illaqa Magistrate/trial Court for recording their respective statements with regard to compromise/settlement on 8.1.2024.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of the parties on or before the next date of hearing containing the following information as well:-

(i) Number of persons arrayed as accused in FIR;

(ii) Whether any accused is proclaimed offender?

(iii) Status of trial/proceedings.

(iv) Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

List on 16.2.2024, for awaiting the report.

Photocopy of this order be placed on the connected file.”

6. Pursuant to the aforesaid order, report dated 30.01.2024 from Judicial Magistrate 1st Class, Narwana has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(i) There were 17 accused named in the FIR out of which final report was submitted against 9 accused whereas 8 accused were found

innocent during investigation.

(ii) No accused has been declared as Proclaimed Offender.

(iii) In both the cases, accused were convicted by the Id. Trial Court and now appeal against the same is pending before the Id. Appellate Court which is fixed for arguments.

(iv) As both the parties have assembled before the court and made the statement voluntarily, the compromise seems to be genuine, voluntary, and without any coercion or undue influence.

The statements in original alongwith report received from Investigating Officer as well as status of trial downloaded from CIS are hereby enclosed for kind perusal.”

7. 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.

8. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (**Annexure P-4 and Annexure P-6**) respectively.

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

10. 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.*

11. 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.”

12. Consequently, the petition is allowed. FIR No.317 dated 17.11.2014 (Annexure P-1) registered under Sections 148, 323, 341 and 506 read with Section 149 of IPC as well as judgment of conviction dated 16.03.2022 and order of quantum of sentence dated 23.03.2022 (Annexure P-2 and P-3 respectively) passed from the Court of Judicial Magsitrate 1st Class, Narwana, Jind registered at Police Station Saddar, Narwana, Jind and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner(s).

16.02.2024
spn

(PANKAJ JAIN)
JUDGE

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