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

CRM-M-28598-2020 (O&M)

Date of decision : 31.01.2024

Arshdeep @ Arsh Gill and another

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. S.S. Sarwara, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. SPS Chakkal, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.125 dated 25.08.2020, registered for offences punishable under Sections 308, 323, 148 and 149 of IPC at Police Station City-1 Malerkotla, District Sangrur on the basis of compromise dated 07.09.2020 (Annexure P-2).

2. On 02.08.2023, the following order was passed:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of FIR No.125 dated 25.08.2020, registered for offences punishable under Sections 308, 323, 148, 149 of IPC, at Police Station City-1 Malerkotla, District Sangrur (Annexure P-1) and all subsequent proceedings arising thereto on the basis of compromise.

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Learned counsel for the petitioners contends that the matter already stands compromised vide compromise deed dated 07.09.2020 (Annexure P-2).

Status report by way of affidavit dated 02.08.2023 of Kuldeep Singh, PPS, Deputy Superintendent of Police, Sub Division Malerkotla, District Malerkotla has been filed on behalf of respondent-State of Punjab in the Court today. The same is taken on record. Copy supplied to counsel opposite.

Parties are directed to appear before the Illaqa Magistrate/Duty Magistrate to get their statements recorded on 23.08.2023 with respect to the compromise and on their doing so, the learned Illaqa Magistrate/trial Court/ Duty Magistrate 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

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learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

Adjourned to 16.10.2023.”

3. However, as per report received from the trial Court dated 04.10.2023, petitioner No.1 could not appear, but son of the complainant and petitioner No.2 got their statements recorded, as complainant Shinder Singh is stated to have died.

4. Vide order dated 16.10.2023 passed by this Court, petitioner No.1 was given last opportunity to record his statement, subject to payment of Rs.10,000/- as cost.

5. Pursuant to the aforesaid orders, report dated 05.12.2023 from SDJM, Malerkotla has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Victim/injured Jaspreet Singh and accused Arshdeep @ Arsh Gill appeared and their statements regarding compromise have been recorded. Accused Arshadeep @ Arsh also produced receipt dated 31.10.2023 vide which he deposited an amount of Rs. 10,000/-as cost with Punjab and Haryana High Court Bar Association Lawyer's Family Welfare Fund. Statement of Investigating Officer ASI Balvir Singh has also been recorded. The report is submitted as under:-

1. As per record, there are six accused namely Prince Kumar, Mohd. Anas, Arsh Gill, Ranjha, Khushwant Sharma, Sabar Khan alongwith five unknown persons arrayed as accused in the FIR.

2. As per statement of Investigating Officer, none of accused is declared proclaimed offender.

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3. As per statements of appearing parties, the compromise is genuine. voluntarily and without any coercion or undue influence and out of free will of the parties.

4. As per statement of Investigating Officer, accused/petitioners are not involved in any other FIR.

5. As per statement of Investigating Officer, there is one complainant in the present FIR namely Sinder Singh who has since died. There is one victim/injured in the present FIR i.e. Jaspreet Singh son of complainant Sinder Singh.

Note: It is respectfully submitted that in compliance of order dated 02.08.2023, report no.2815 dated 04.10.2023 has already been sent with regard to accused-petitioner Sabar Khan whereas accused-petitioner Arshdeep @ Arsh did not appear on that day. Now, accused/petitioner Arshdeep @ Arsh Gill has appeared and his statement recorded with regard to compromise. There are total six accused were arrayed in the FIR by name but the present quashing petition has been filed by two accused namely Sabar Khan and Arshdeep Singh @ Arsh Gill. It is further submitted that the victim/injured Jaspreet Singh has specifically stated that he has no objection if the present FIR be quashed against all the accused.

6. Mr. SPS Chakkal, Advocate appears for respondents No.2 & 3 and 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 petitioners are quashed.

7. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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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 Cr.P.C. to quash proceedings 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 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*

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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 law laid down by the Apex Court in the case of **Ram Gopal and another 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. FIR No.125 dated 25.08.2020, registered for offences punishable under Sections 308, 323, 148 and 149 of IPC at Police Station City-1 Malerkotla, District Sangrur and all proceedings arising therefrom, are, hereby, quashed qua the

petitioners.

12. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

31.01.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No