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

CRM-M No.33964 of 2023
Date of decision : 16.02.2024.

Kulwant Singh

....Petitioner

Versus

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Lakhwinder Singh Mann, Advocate
for the petitioner.

Mr. A.K.Sehrawat, DAG Haryana.

Mr. Gawen, Advocate for
Mr. Rohit Rana, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioner is seeking quashing
of FIR No.160 dated 22.12.2022 registered under Sections 406, 420-B of
IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014
at Police Station Lohian, District Jalandhar, Rural and all consequent
proceedings arising therefrom on the basis of compromise.

2 On 09.11.2023, the following order was passed:

“Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No. 160 dated 22. 12 2022, under Sections 406, 420 IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, registered at Police Station Lohian, District Jalandhar Rural, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of compromise dated 25.02.2023 Annexure P-2, arrived at between the

parties.

Notice of motion.

On asking of the Court, Mr.APS Tung, DAG, Punjab, accepts notice of behalf of State-respondent No.1.

Mr. Rohit Rana, Advocate has put in appearance and accepts notice on behalf of complainant-respondent No.2. He has filed Vakalatnama/Power of Attorney, which is taken on record. He has admitted the factum of compromise and supports the prayer made in the petition.

The parties and the Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 13.12.2023 or on any day thereafter as fixed by the trial Court, for getting their statements recorded with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties;*
- 5. whether any other criminal case is pending against the accused.*

Report of the Area Magistrate/Trial Court be awaited for 16.02.2024.”

3 Pursuant to the aforesaid order, report dated 05.01.2024 from Judicial Magistrate 1st Class, Nakodar 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 vide order dated 09.11.2023 Hon'ble High Court of Punjab & Haryana, Chandigarh directed the parties to appear before the Illaqa Magistrate Trial Court to get recorded

their statement regarding compromise.

In compliance to above-said directions, on 13.12.2023 the parties appeared before the Court of undersigned being Illaqa Magistrate for recording their statements. Complainant Joginder Singh s/o Sohan Singh, r/o Village Mandala Channa, District Jalandhar appeared in the Court and suffered a statement that he is complainant in the present case bearing FIR No. 160 dated 22.12.2022 U/s 406/420 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at PS: Lohian against accused Kulwant Singh s/o Joginder Singh, r/o village Mundi Shahirian, PS: Lohian, District Jalandhar and he is the only one accused in the present FIR and except the abovesaid accused person, there is no other accused in the present FIR and no accused has been declared Proclaimed Offender in the present case and he has effected compromise with the accused person namely Kulwant Singh s/o Joginder Singh, r/o village Mundi Shah Lohian, District Jalandhar and this compromise is genuine and voluntary out of their free will without any coercion or any pressure or undue influence and now? there is no grudge against the accused person and there is nothing due towards accused Kulwant Singh s/o Joginder Singh and he has no objection, if the present FIR No. 160 dated 22.12.2022 U/s 406/420 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at PS Lohian, District Jalandhar be quashed by the Hon'ble Punjab and Haryana High Court at Chandigarh. He identified the accused person present today in the court with whom he has made the compromise. He also placed on record his copy of adhar card and same is Ex. P1.

Similarly accused/ petitioner Kulwant Singh s/o Joginder Singh, r/o Village Mundi Shahirian, PS: Lohian, District Jalandhar also suffered a statement that he is accused in the present case bearing FIR No. 160 dated 22.12.2022 U/s 406/420 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at PS Lohian, District Jalandhar against him on the basis of complaint moved by complainant Joginder Singh s/o Sohan Singh, r/o village Mandala Channa, District Jalandhar who is the complainant in the present case and except him there is no any other accused in the present case and no accused has been declared Proclaimed Person/Offender in the present case and he has effected compromise with the complainant namely Joginder Singh s/o Sohan Singh, r/o village Mandala Channa and this compromise is genuine and voluntary out of their free will without any coercion or undue influence and except the present case there is no other criminal

proceedings pending against him. He also placed on record his copy of adhar card and same is Ex. P2.

Sub-Inspector Govinder Singh, No. 175/Jal, presently posted at PS: ohian, who is investigating officer in the present case also appeared in the Court and suffered statement that he is IO in the present case and the FIR No. 160 dated 22.12.2022 Uis 406/420 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at PS Lohian, at the instance of complainant Joginder Singh s/o Sohan Singh at PS Lohian against accused Kulwant Singh s/o Joginder Singh, r/o Mundi Shahirian, PS Lohian and as per the police record there is one person arrayed as accused in the present FIR and except the abovesaid accused person no other person is arrayed as accused in the present case and no accused is absconding or has been declared Proclaimed Offender/person in the present case. He stated that the complainant Joginder Singh s/o Sohan Singh in the present case is only complainant/victim and except him there is no any other complainant/victim/aggrieved in this case and as per the police record there is no any other criminal proceeding pending against accused Kulwant Singh s/o Joginder Singh except the present case. He stated that both the parties have effected compromise with each other and the compromise is genuine, voluntary and out of the free will and without undue influence and now there is no grudge between both parties.

As per the directions of the Hon'ble High Court following information is provided:

1. As per the statement of investigating officer in the present FIR bearing No. 160 dated 22.12.2022 U/s 406/420 of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 registered at PS Lohian there is only one person arraigned as accused namely Kulwant Singh in the present case who has made the statement and no accused is absconding or has been declared Proclaimed Offender/ Person in the present case.

2 As per the statement of investigating officer, complainant Joginder Singh is only aggrieved person in the present case and except him there is no any case against complainant injured aggrieved in this case and he has appeared and made statement in support of the compromis.

3. In the present case trial has not been initiated as the final report/ challan has been presented in the court yet.

4. *As per the statement of the parties, the compromise is genuine, voluntary and of free will of the parties.*

5. *As per statement of accused person and investigating officer, except the present case there is no other criminal proceedings pending against accused Kulwant Singh.”*

4 Learned counsel for respondents 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 is quashed.

5 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (**Annexure P-2**).

6 I have heard learned 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 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.

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.160 dated 22.12.2022 registered under Sections 406, 420-B of IPC and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014 at Police Station Lohian, District Jalandhar, Rural and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

16.02.2024
spn

(PANKAJ JAIN)
JUDGE

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