

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

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**2024:PHHC:040937
CRM-M-34597 OF 2023
Date of decision: 20.03.2024**

Nishant Patial

..Petitioner

Vs.

State of Haryana and Another

..Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Arun Gupta, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Hardeep Singh Dhillon, Advocate
for respondent No.2.

PANKAJ JAIN, J.(ORAL)

1 By way of present petition, the petitioner is seeking quashing of FIR No.284, dated 24.05.2023, registered for offences punishable under Sections 380/457 of the Indian Penal Code, 1860, however, during investigation offence under Section 380 IPC was deleted and offences under Sections 381/427 IPC were added later on at Police Station Pinjore, District Panchkula and all consequent proceedings arising therefrom on the basis of compromise.

2 On 20.07.2023 the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioner seeking quashing of FIR No.284, dated 24.05.2023, registered for offences punishable under Sections 380/457 IPC, however, during investigation offence under Section 380 IPC was deleted and offences under Section 381/427 IPC were added later on at Police Station Pinjore, District Panchkula.

Learned Counsel for the petitioner contends that the matter already stands compromised vide compromise dated 21.06.2023 (Annexure P-2).

Notice of motion for 21.09.2023.

On the asking of the Court, Mr. Gaurav Bansal, DAG, Haryana accepts notice on behalf of respondent No.1-State. Mr. H.S. Dhillon, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties, i.e. the petitioner as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 08.08.2023. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court 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 learned Illaq Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3 Pursuant to the aforesaid order, report dated 08.08.2023 from Sub-Divisional Judicial Magistrate Kalka has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1 As per directions of Hon’ble High Court, on dated 20.07.2023 complainant-Rohit Malik appeared and got recorded his statement to the effect that he has got the above said FIR registered against the one person i.e. Nishant Patial. Now with the intervention of respectable of the society and relatives, the dispute between him and accused has been settled vide Ex.C1(compromise). The said compromise is voluntary and genuine and now he has no grudge against the above named accused. He is making the statement voluntarily on basis of his free will. There is only one accused in the present case. He is the only complainant/victim/aggrieved. He has no

objection, if the present FIR is quashed as per the above said compromise.

2. *Thereafter, accused Nishant Patial got recorded his statement wherein he stated that he has compromised the matter with the complainant voluntarily and without any pressure or undue influence from any side. He is bound by the terms and conditions of the compromise Ex.C1. The FIR in question is against him. He does not have any criminal case pending against him except the present FIR. He has never been declared proclaimed offender(s). He is giving this statement voluntarily and on basis of free will. The compromise is genuine.*

3. *As per the report of Investigating Officer A.S.I. Rishi Pal, there is only one accused namely Nishant Patial in the present FIR. Accused has never been declared proclaimed offender in the present case. Accused is not involved in any other case. There is only one complainant-Rohit Malik in the present FIR. Since the matter has been compromised by the complainant with the accused without any pressure, coercion or threat from any side, who has no objection with regard to quashing of FIR on the basis of compromise, therefore, compromise is genuine, complete, good in the eyes of law and voluntary.”*

4. Learned counsel 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, 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.284, dated 24.05.2023, registered for offences punishable under Sections 380/457 of the Indian Penal Code, 1860, however, during investigation offence under Section 380 IPC was deleted and offences under Sections 381/427 IPC were added later on at Police Station Pinjore, District Panchkula and all proceedings arising therefrom, are, hereby, quashed *qua* petitioner.

March 20, 2024
Poonam Sharma

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable :	No