

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

CRM-M-40913-2021
Date of Decision : 22-04-2024

Sukhchain Singh alias Channa and others
.....Petitioner(s)

Versus

The State of Punjab and others **.....Respondent(s)**

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Anutej Singh Barnala, Advocate
for the petitioner(s).

Mr. J.S. Arora, DAG Punjab.
Along with SI Kuldeep Singh.

Ms. Lovepreet Kaur, Advocate
For Mr. Ritesh Pandey, Advocate
For respondent Nos.2 and 3.

PANKAJ JAIN, J. (Oral)

1. By way of the present petition, petitioners are seeking quashing of FIR No. 119, dated 03.09.2021 (Annexure P-1), under Sections 307, 324, 323, 506, 148, 149, 427 of the IPC and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Dhanaula, District Barnala, with all subsequent proceedings arising therefrom, on the basis of compromise dated 13.09.2021 (Annexure P2).

2. On 03.05.2023, the following order was passed :-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.119, dated 03.09.2021 (Annexure P-1), under Sections 307, 324, 323, 506, 148, 149, 427 of the IPC and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Dhanaula, District Barnala, with all subsequent proceedings arising therefrom, on the basis of compromise dated 13.09.2021 (Annexure P2).

2). Mr. Ritesh Pandey, Advocate has put in appearance on behalf of respondents No.2 & 3 and has filed Vakalatnama. He admits the factum of compromise entered into between the parties.

List on 30.05.2023.

In the meantime, the parties are directed to appear before the Illaqa Magistrate/trial Court within a period of two weeks from today, for recording of their statements with regard to the compromise.

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

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

(ii) Whether any accused is declared as proclaimed offender?

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

(iv) Whether the accused persons are involved in any other FIR or not?

3. Pursuant to the aforesaid order, report dated 20.04.2024 from Chief Judicial Magistrate, Barnala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In pursuance of Orders dated 03.05.2023 and 27.02.2024, passed by Hon'ble Punjab and Haryana High Court, the undersigned has been directed to submit fresh report along with explanation. It is most respectfully submitted that the statements of complainant namely Rupinder Sharma and Jagdeep Singh as well as accused namely Sukhchain Singh alias Channa and Rupinder Singh alias Jogi were recorded on 11.05.2023 and the requisite report was submitted before the Hon'ble Punjab and Haryana High Court through the learned District and Sessions Judge, Barnala vide letter no.754 dated 20.05.2023. In said report, it was reported that the parties have compromised the matter with the intervention of respectables without any pressure or coercion and they have no objection if present FIR is quashed. The parties have also placed on record the photocopy of the compromise deed Ex.C1. It has been further submitted that accused Sukhjinder Singh alias Binder Singh has died. Photocopy of his death certificate has also been placed on record which is Ex.C2. So, I am satisfied that the compromise arrived between the parties who appeared before the undersigned for recording their statements, is genuine and valid one.

It is further submitted that on 20.05.2023, Investigating Officer AS! Balwinder Singh, has appeared in the court and suffered statement that the present case bearing FIR No. 119 dt. 03.09 2021, under Sections 307, 324, 323, 506, 148, 149, 427 of IPC and Section 25 of Arms Act was registered at Police Station Dhanaula on the basis of statement of complainant Rupinder Sharma against the accused namely Sukhchain Singh alias Channa, Sukhjinder Singh alias Binder and Rupinder Singh. As per statement of accused Sukhchain Singh and Rupinder Singh, accused Sukhiinder Singh alias Binder Singh has since died. He has further submitted that the above three persons are only arrayed as an accused in the present FIR till date and none

of the above said accused has been declared as proclaimed offender in the present case till date. He has further submitted that accused are not involved in any other case. It is further submitted that present case is still pending under investigation and challan has not been presented.

The report was submitted on 30.05.2023 before the Hon'ble Punjab and Haryana High Court by the undersigned vide letter no. 754 dated 20.05.2023 and the copy of the said letter is enclosed here-with for kind perusal and therefore it is requested that the explanation submitted may kindly be considered as satisfactory.

Fresh report is accordingly submitted to be presented in CRM-M-40913-2021, pending for 22.04.2024 before the Hon'ble Punjab & Haryana High Court, Chandigarh.”

4. Learned counsel for the petitioner submits the injuries with sharp edged weapons are on non-vital parts. Thus the case would not fall within the exceptions as carved out in ***Laxmi Narayan's*** case (supra) i.e. heinous offence.

5. Learned counsel for respondent Nos.2 and 3 admits the fact of parties having compromised and states that she has no objection in case the FIR and all proceedings subsequent thereto against the petitioners are quashed.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 13.09.2021 (Annexure P-2).

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

8. 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, 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) and Mohammad Wajid & anr. Vs. State of U.P. & ors, 2023 AIR (SC) 3784. 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.

(h) When it comes to quashing of FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings.

9. 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).*

(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) No firearm has been used.

(vii) Injuries are not on non vital parts and thus this Court can exercise jurisdiction under Section 482 Cr.P.C. to quash proceedings.

(viii) Investigation stands completed.

10. Consequently, the petition is allowed. FIR No. 119, dated 03.09.2021 (Annexure P-1), under Sections 307, 324, 323, 506, 148, 149, 427 of the IPC and Sections 25 & 27 of Arms Act, 1959, registered at Police Station Dhanaula, District Barnala, and all proceedings arising therefrom on the basis of compromise (Annexure P2) are hereby quashed *qua* petitioners.

22.04.2024

spn

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No