

2024:PHHC:008988

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

CRM-M No. 36734 of 2023
Date of decision : 23.01.2024.

Yogesh

....Petitioner

Versus

State of Haryana and Another

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Bhuwadesh Lakhera, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Ms. Arunima Agashe, Advocate for
Mr. Rohit Mittal, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioner is seeking quashing
of FIR No.136 dated 23.02.2023, registered under Sections 406, 420, 467,
468, 471 of IPC at Police Station City Narnaul District Mahendargarh
(Annexure P-1), and all consequent proceedings arising therefrom on the
basis of compromise.

2 On 31.07.2023, 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.136 dated 23.02.2023, registered for offences punishable under Sections 406/420/467/468 & 471 of the Indian Penal Code, at Police Station City Narnaul, District

Mahendargarh.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise dated 18.07.2023 (Annexure P-2). He further submits that the dispute is inter se between father and the son.

Notice of motion for 30.10.2023.

On the asking of the Court, Mr. Gaurav Bansal, DAG, Haryana accepts notice on behalf of respondent No.1-State. Ms. Arunima Agashe, 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 18.08.2023. 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.”

Chief Judicial Magistrate, Narnaul has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is humbly submitted that pursuant to instructions of Hon'ble High Court as issued vide order dated 31.07.2023 passed in Criminal Miscellaneous No. CRM-M-36734-2023 titled as Yogesh Vs. State of Haryana & another complainant Pohkar Singh S/o Sh. Sheotaj Singh, accused namely Yogesh S/o Pohkar and Virender Kumar ASI appeared before this Court being Trial Court. On dated 18.8.2023, statement of complainant Pohkar Singh and Virender Kumar ASI were recorded. On 19.8.2023 statement of accused Yogesh Kumar S/o Pohkar was recorded. Complainant Pohkar Singh vide his separate recorded statement stated that in FIR bearing No. 136 dated 23.2.2023 with the intervention of local persons of the society matter has been compromised between the complainant and accused and the said compromise has been affected without any coercion, force or undue influence and same is genuine. Further, he stated that he has no objection in quashing the present FIR. Separate statement of accused as above-mentioned has been recorded wherein he has deposed that matter has been compromised between the complainant and accused in FIR bearing No. 136 dated 23.2.2023 with intervention of local residents of the society. The accused has been identified by his counsel whereas complainant has been duly identified by the Investigating Officer. It is humbly submitted that on 18.8.2023 statement of Investigating Officers namely ASI Vijender Kumar No.478/NNL was recorded who deposed that in this FIR there is only one accused namely Yogesh Kumar S/o Pohkar Singh, r/o village Kojinda. Accused is not declared as proclaimed offender. There is no FIR against the accused as per record of local police. There is only one victim/complainant namely Pohkar Singh S/o Sheotaj Singh.

- 1. Only one person has been arrayed as accused namely accused Yogesh Kumar who appeared and suffered his statement in the court on 19.8.2023.*
- 2. As per the statement of Investigating Officer, accused has not been declared as proclaimed offender.*
- 3. In view of statements of complainant, as well as accused, I am satisfied that the compromise between the complainant and accused is genuine, voluntary and without any coercion or any undue influence.*
- 4. As per the statement of Investigating Officer, accused is not involved in any other FIR except the present one.*
- 5. There is one complainant in the present FIR namely Pohkar Singh who suffered his statement in the court on 18.8.2023.*

The original statement of complainant, statement of accused, statement of Investigating Officer are being sent herewith for kind perusal of the Hon'ble High Court as desired.”

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 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. 136 dated 23.02.2023 registered under Sections 406, 420, 467, 468, 471 of IPC at Police Station City Narnaul, District Mahendargarh (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

23.01.2024
pry

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No