

2024:PHHC:029029

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

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CRM-M-43419-2021
Date of decision: 29.02.2024

Joginder Kumar and others

...Petitioners

V/s

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr.M.S. Sidhu, Advocate, for the petitioners.

Mr.Yuvraj Singh Tiwana, AAG, Punjab.

Mr.P.S. Saini, Advocate for

Mr. Atul Goyal, Advocate for respondent No.2.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.200 dated 08.12.2020 under Sections 323, 354, 149 of IPC, registered at Police Station Tibba, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 16.05.2021 (Annexure P-2), which is stated to have been effected between the parties.

2 On 08.08.2022, the following order was passed:

“Instant application is filed for issuance of directions to the petitioners and respondent No.2 for recording their statements before the trial Court in terms of compromise dated 16.05.2021, Annexure P-2.

Notice of the application.

On the asking of the Court, Ms.Sakshi Bakshi, AAG, Punjab, who is present in Court, accepts notice on behalf of the respondent-State whereas Ms.Gaganjot Kaur, Advocate accepts notice on behalf of respondent No.2.

It has been contended by learned counsel for the applicant-petitioners that the parties have compromised the matter and as such the FIR is liable to be quashed.

Learned counsel for respondent No.2-complainant has affirmed the assertions made by learned counsel for the petitioners.

In view of above, both the parties are directed to appear before the concerned Illaqa Magistrate/Duty Magistrate on 06.09.2022 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case. The Illaqa Magistrate/Duty Magistrate shall send his/her report through learned Sessions Judge concerned on or before the date fixed before this Court, i.e. 26.09.2022.

Application stands allowed.”

3. Pursuant to the aforesaid order, report dated 12.01.2024 from Judicial Magistrate First Class, Ludhiana, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“On the date fixed by Hon'ble High Court i.e. 06.09.2022, complainant Anju Bala, aggrieved persons Babli, Raman Kumar and accused persons namely Joginder Kumar, Gurmail Singh, Balwant Rai, Husan Lal, Sahil Kumar, Amandeep Kumar, Major Singh, Suresh Kumar, Sudesh Kumari alias Reeta, Keshav Kumar, Ashok Kumar and Bhajan Lal appeared before learned predecessor court and got their separate statements recorded to the effect that complainant Anju Bala had lodged FIR No. 200 dated 08.12.2020 under Sections 323, 354, 149 IPC at Police Station Tibba against the accused persons and now with the intervention of respectable, the matter has been compromised between the parties and they have no grudge against each other and prayed that present FIR/cash may be quashed against the

accused persons. They further got recorded in their statements that they are making statements with their free Will and consent, without any pressure or coercion from any side and compromise between them is not result of any fraud and misrepresentation as they have arrived at compromise with their own free will.

SI Baldev Singh, Investigating Officer of the case also appeared before learned Predecessor Court and got recorded his statement that present case was registered against the accused persons on the complaint of complainant Anju Bala. Raman Kumar and Babli are aggrieved persons in the present case apart from complainant Anju Bala. There is no other accused in this FIR and present accused persons are not involved in any other FIR. None of accused persons have been declared proclaimed offenders in the present case or in any other case. Accused Resham Kumar son of Karam Chand has died during pendency of the present case and his death certificate has been submitted on record. The complainant, all the aggrieved persons and all the accused persons are party to the compromise in question.

After recording statements of parties, learned Predecessor Court sent point wise detailed report along with requisite documents vide letter No. 682 dated 19.09.2022 in compliance of orders of Hon'ble High Court.

In the above said facts and circumstances of the case, their court is of the opinion that compromise effected between the parties is genuine and is not the result of any fraud or misrepresentation and is the result of free will the parties.”

4. Learned counsel for respondent No.2 admits the factum of parties having compromised and states that he has no objection in case the FIR and all proceedings subsequent thereto against the petitioners 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 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 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 primarily 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 No200 dated 08.12.2020 under Sections 323, 354, 149 of IPC, registered at Police Station Tibba, District Ludhiana and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated (Annexure P-2), are, hereby, quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

February 29, 2024
poonam

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