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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-39043-2023 (O&M)

Date of Decision: 29.02.2024

VINOD AND ORS.

.. Petitioners

Vs.

STATE OF HARYANA AND OTHERS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Lalit Kumar Narang, Advocate for the petitioners

Ms. Mahima Yashpal, DAG, Haryana.

Mr. Amit Khari, Advocate for respondents No.2 to 4.

...

SUMEET GOEL, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.418 dated 12.09.2020 under Sections 147, 148, 149, 323, 506, 452, 354-A, 379, 336 of IPC (Later on sections 325 IPC added and Sections 147/379 IPC deleted), registered at Police Station Meham, District Rohtak and all consequential proceedings arising therefrom on the basis of compromise/affidavit dated 30.07.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 15.01.2024, the following order was passed:

“The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioners shall appear before the trial Court/Ilqa Magistrate concerned on 25.01.2024 or any date thereafter as fixed by trial Court/Ilqa Magistrate for recording statements of the petitioners as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the trial Court/Ilqa Magistrate shall do the needful for recording the

statements of the parties qua the factum of the compromise. It shall be open to the trial Court/Illaq Magistrate to either record the statements of the parties by physical process or by video conferencing as deemed appropriate by the trial Court/Illaq Magistrate.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The trial Court/Illaq Magistrate may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective counsel. This shall be subject to satisfaction of trial Court/Illaq Magistrate.

After recording the statements of all the affected parties in either of the aforesaid manner, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The trial Court/Illaq Magistrate shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition?

(ii) Whether there is any other complainant or affected/ aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e.27.02.2024. ”

3. Pursuant to the aforesaid order, report dated 07.02.2024 from

ld. Addl. Civil Judge (Sr. Divn.)-cum-SDJM, Meham has been received,

which is taken on record. As per the report, the Trial Court has recorded as

follows:-

“1) There were eight persons mentioned in the FIR as accused who are namely Vinod son of Laxmi Narayan, Aged 41 years, R/o Village Sisar Khas, Tehsil Meham, District Rohtak, Rahul son of Baljeet, Aged 23 years, R/o Village Umra, Tehsil Hansi, District Hissar, Vijay son of Laxmu Narayan, Aged 30 years. Ro Village Sisar Khas, Tehsil Meham, District Rohtak. Kapil son of Rishi Parkash. Aged 24 years, R/o Village Sisar Khas. Tehsil Meham. District Rohtak, Panmeshwari Devi wife of Laxmi Narayan, Aged 74 years. R/o H.No. 347. Village Sisar Khas, Tehsil Meham, District Rohtak. Rishipal Ro Sisar Khas, Meham, Rohtak, Bhupesh son of Vinod. Ro Sisar Khas, Meham, Rohtak and Suraj son of Vinod Ro Sisar Khas, Meham, Rohtak, in the present case. However, the said Rishipal, Bhupesh and Suraj have already been left out from the challan by the Investigating Agency and now only five accused namely Vinod, Rahul, Vijay, Kapil and Panmeshwari are facing trial of the case.

2) The name of complainant/aggrieved is Parwati wife of Mahender, Aged 60 years, R/o Village Sisar Khas, Tehsil Meham, District Rohtak and other aggrieved persons are witnesses namely Mahender and Sonu and they have made their statement in support of compromise.

3) No accused persons has been declared as proclaimed offender in present case.

Hence, the compromise between them appears to be voluntary and genuine. A separate report regarding the compromise and the willingness of the parties along with original statements of parties is being sent to Hon'ble High Court through proper channel. Copies of statements have been retained on the record of this case.”

4. Learned counsel for respondents No.2 to 4 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 petitioners 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 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 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 No.418 dated 12.09.2020 under Sections 147, 148, 149, 323, 506, 452, 354-A, 379, 336 of IPC (Later on sections 325 IPC added and Sections 147/379 IPC deleted),

proceedings arising therefrom on the basis of compromise/affidavit dated 30.07.2023 (Annexure P-2), are, hereby, quashed qua the petitioners.

10. Pending application(s), if any, shall also stand disposed off.

29.02.2024

(SUMEET GOEL)
JUDGE

Jasmine Kaur

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No