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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

283

CRM-M-39061-2023
Date of decision : 30.01.2024

Chander Kishore Soni and another

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Arvind Kumar Sharma, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Samrit Gill, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No.0410, dated 15.05.2018 registered for the offences punishable under Sections 402 and 406 of IPC, 1860 at Police Station DLF-2, District Gurugram, on the basis of compromise deed dated 04.08.2023 (Annexure P-2).

2. On 10.08.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. seeking quashing of FIR No. 0410 dated 15.05.2018 under Sections 420, 406, 1860 IPC registered at Police Station DLF-2, District Gurgaon and all subsequent proceedings arising

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thereto on the basis of compromise.

Learned Counsel for the petitioner contends that the matter already stands compromised vide Compromise Deed dated 04.08.2023 (Annexure P-2).

Notice of motion.

Mr. Gaurav Bansal, DAG, Haryana appears and accepts notice on behalf of respondent No.1-State.

Mr. Samrit Gill, Advocate appears on behalf of the complainant-respondent No.2 and filed his Memo of Appearance. The same is taken on record. He accepts notice and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Illaq Magistrate on 31.08.2023. On their doing so, the learned Trial Court/Illaq Magistrate 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 complaint.
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

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Officer as to how many victims/
complainants are there in the complaint.

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 Trial Court/Duty Magistrate shall
be at liberty to call the parties on any other date
but not later than a week thereafter.

To come up on 17.10.2023.”

3. Pursuant to the aforesaid order, report from Civil Judge (Jr.
Divn.)-cum-JMIC, Gurugram dated 24.01.2024 has been received, which is
taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

Statement of complainant Saurabh Gupta
(also SPA holder on behalf of victim Inderjeet
Banga) and separate statement of Sh. Gulshan
Kumar S/o Sh. Gopi Chand (SPA holder on
behalf of accused Shikha Arora @ Shikha
Chanana) duly identified, were recorded.
Statement of accused Chander Kishore Soni could
not be recorded, as he did not appear before the
Court regarding same. As per the statement of
complainant, he has arrived at compromise with
both accused Shikha Arora and Chander Kishore
Soni without any fear, coercion or undue
influence and he has no objection if the FIR is
quashed, Further, statement of IO SI Arjun is also
recorded to the effect that on 15.05.2018 the
present FIR no. 410 U/s 406, 420 of IPC was
registered against two accused namely Chander

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Kishore Soni & Shikha Arora. The IO stated that none of the accused is declared PO and no other case FIR is pending against them. The IO further stated that the present case is pending before Hon'ble High Court for quashing. The IO further stated that Shaurabh Gupta is the complainant in case, who gave the complaint on the basis of SPA. Lastly, the IO stated that Inderjeet Banga is the only victim in case.”

4. Counsel appearing 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 petitioners are quashed.

5. Similarly learned State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard 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 Cr.P.C. to quash proceedings recognizing compromise between the 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

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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.*

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(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.0410, dated 15.05.2018 registered for the offences punishable under Sections 402 and 406 of IPC, 1860 at Police Station DLF-2, District Gurugram and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

30.01.2024
Dinesh

Whether speaking/reasoned : Yes
Whether reportable : No