

2024:PHHC:009643

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

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CRM-M-40547-2023
Date of decision: 24.01.2024

Darshan Singh and another

....Petitioners

V/s

Stater of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. J.S.Bhinder, Advocate,
for the petitioners.

Mr. Adhiraj Singh Thind, AAG, Punjab.

Mr.B.S. Toor, Advocate,
for respondent No.2.

SUMEET GOEL, J.

1. By way of present petition, the petitioners are seeking quashing of FIR No. 61 dated 25.12.2018 (Annexure P-1) under Sections 457, 354, 506, 34 of IPC, registered at Police Station, Sehna, District Barnala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 28.07.2023 (Annexure P-2), which is stated to have been effected between the parties.

2 On 18.08.2023, the following order was passed:

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.61 dated 25.12.2018 under Sections 457, 354, 506, 34 of the Indian Penal Code, 1860 registered at Police Station Sehna, District Barnala, and all other consequential proceedings arising there-

from, on the ground that the parties have since compromised the matter vide compromise deed dated 28.07.2023 (Annexure P-2). Learned counsel for the petitioners would contend that with the intervention of the respectable persons the matter has been resolved and the same has been reduced into writing in the form of a compromise deed dated 28.07.2023 (Annexure P-2). Learned counsel for the petitioners has relied upon the judgment by the Hon'ble Supreme Court rendered in "Gian Singh V/s State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgment of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Notice of motion.

On the asking of the Court, Mr. M.S. Tiwana, AAG Punjab accepts notice on behalf of for respondent No.1-State and Mr. B.S. Toor, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel. Learned counsel appearing for respondent No.2 has stated that all the disputes between the parties stand resolved and the parties have voluntarily entered into a compromise vide compromise deed dated 28.07.2023 (Annexure P-2). He further states that respondent No.2 has no objection if the aforesaid FIR is quashed. List on 05.12.2023.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 18.09.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along with the statements of the parties, on the following points be sent to this Court before the next date of hearing:

- 1) Whether the settlement/compromise dated 28.07.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*

3) Whether any proclamation proceedings are pending against either of the parties.”

3. Pursuant to the aforesaid order, report dated 27.09.2023 from Judicial Magistrate, First Class, Barnala, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. I have the honor to submit that vide order dated 18.08.2023 of Hon'ble High Court, passed in the subject cited petition, this Court has been directed to record the statements of the parties on 18.09.2023 or on any other date convenient to the court for recording the statement of parties with regard genuineness of the compromise (Annexure P-2) and to submit the statements as well as report back in original before the next date of hearing containing the following information as well :-

1) Whether the statement/compromise dated 28.07.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

2) Whether any other criminal case is pending against the parties.

3) Whether any proclamation proceedings are pending against either of the parties.

2. Accordingly both the parties i.e. complainant namely Verpal Kaur wife of Nirmal Singh and accused person namely Darshan Singh son of Jarnail Singh and Amandeep Singh son of Balwinder Singh appeared in the Court for getting their statements recorded regarding compromise effected between them. Complainant Veer Pal Kaur suffered separate statement to the effect that complainant got registered one case FIR No619 dated 25.12.2018 against Darshan Singh and Amandeep Singh under Sections 457, 354, 506, 34 of Indian Penal Code, 1860 at Police Station Sehna, Barnala. She further submitted that she has compromised the matter with accused persons as mentioned above with intervention of respectables. She has no grudge

against the accused persons. She has compromised the matter voluntarily and without any fear, force, pressure and coercion. She has no objection in case the above FIR against the accused persons/petitioners be quashed. She further placed on record the copy of compromise deed as Ex.C1. Accused persons/petitioners also suffered similar statement. They further stated that the present FIR may be quashed on the basis of the compromise.

3. Statements of ASI Avtar Singh No.596/BNL. i.e. Investigating Officer of the case was also recorded, who stated that FIR No.61 dated 25.12.2018 under Sections 457, 354, 506, 34 of Indian Penal Code, 1860 at Police Station Sehna, Barnala was registered at the instance of complainant/respondent no.2 against accused persons/petitioners namely Darshan Singh and Amandeep Singh. No other person is arrested in this case. Accused persons are not declared proclaimed offender in any other case and their custody is also not required any other case. None of the accused is previous convict and no other case is pending against the petitioners and respondent no. 2.

4. From the statements of both the parties as well as the investigating officer of the case, the compromise appears to be genuine, valid, voluntary and without any pressure, coercion or undue influence. In case FIR No.61 dated 25.12.2018 under Sections 457, 354, 506, 34 of Indian Penal Code, 1860 two accused persons namely Darshan Singh and Amandeep Singh, have been arrayed as accused. All the accused and the complainant/injured have been made party in the petition before the hon'ble High Court. Further, except complainant Veer Pal Kaur, no other person is the complainant and victim in the present case. The parties in the present petition are neither previous convict nor any case is pending against them. None of the parties involved in this case is ever declared proclaimed offender.

5. This present report is accordingly submitted please, for onward transmission to the Hon'ble Punjab and Haryana High Court for kind information and necessary action. Photocopies of

statements so recorded are also enclosed herewith, for kind perusal please.”

4. Learned counsel for respondent No.2 admits the factum of parties having compromised the matter 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 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 No.61 dated 25.12.2018 under Sections 457, 354, 506, 34 of IPC, registered at Police Station Sehna, District Barnala and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 28.07.2023 (Annexure P-2) are hereby quashed qua the petitioners.

(SUMEET GOEL)
JUDGE

January 24, 2024
poonam

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