

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

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CRM-M-42510-2022

Date of decision : 03.04.2024

Ayush Sarawgi**..... Petitioner****versus****State of Haryana and anr.****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Mohit Garg, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Mohak Arora, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.5 dated 04.01.2022, registered for the offences punishable under Sections 406, 506 and 120-B of IPC at Police Station Sector 37, District Gurugram.

2. On 15.01.2024, the following order was passed:-

“Counsels are *ad-idem* that the matter can be settled amicably.

In the circumstances, the matter is referred to the Mediation and Conciliation Centre of this Court. Registry is directed to send the record of this case to the Mediation and Conciliation Centre.

Parties through their counsel are directed to appear before the Mediation and Conciliation Centre on 02.02.2024.

To await report, adjourned to 03.04.2024.”

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3. Counsels are *ad idem* that the matter now stands settled before the Medication & Conciliation Centre of this Court. Report in this regard has been received from the Mediator accompanied by written settlement dated 20.03.2024. Terms of the settlement read as under:

“xx xx xx

a) That the shuttering material required by the first party was initially supplied through Gobind Shuttering situated at Gurugram which was later on transferred to Baba Deep Singh Shuttering Pvt. Ltd. Gurugram through a tri-party agreement thus it is made clear that Gobind Shuttering too has no claim whatsoever against the first party i.e. M/s Sarawgi Builders & Promoters Pvt. Ltd.

b) It is agreed between the parties that the shuttering material which was required by the first party in bulk at Ranchi for purpose of some construction undertaken by the first party was not being returned which led to sour relations and litigations.

c) The parties have further agreed that as some of these shuttering materials have now been returned to the complainant-second party and as the first party is in no position to return the rest of the material the complainant/second party is ready to forego all the remaining shuttering material.

d) It is agreed between the parties that the complainant/second party has no objection if the above-said FIR is quashed by the Hon'ble High Court against the first party Ayush Sarawgi and his father namely Sh. Gyan prakash Sarawgi.

e) It is also agreed between the parties that the complainant/second party reserves its right to pursue the proceedings in CP(IB) No.1572/KB/2018 pending

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before the NCLT, Kolkata where the father of the first party namely Gyan Prakash Sarawgi has been declared insolvent and if during liquidation proceedings nothing falls in his kitty then the second party will not make any claim from the first party whatsoever.

f) The parties also agreed that they will not file any other case or complaint regarding this dispute as it stands settled for all times to come.”

4. Mr. Mohak Arora, Advocate appears for respondent No.2 and 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.

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 Cr.P.C. to quash proceedings 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 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.5 dated 04.01.2022, registered for the offences punishable under Sections 406, 506 and 120-B of IPC at Police Station Sector 37, District Gurugram and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

03.04.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No