

281 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-42110-2023
Date of decision : 22.02.2024

RAJESH KUMAR @ RAJU @ RAJINDER KUMAR AND OTHERS
....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Riffi Birla, Advocate for the petitioners.

Mr. Harish Mehla, AAG, Punjab.

Mr. Ritesh Grover, Advocate for
Mr. Kamal Kumar, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.5 dated 26.01.2018, registered for offences punishable under Sections 441, 436, 427, 379, 506, 148 & 149 IPC at Police Station Khuian Sarwar, District Fazilka (Annexure P-1) on the basis of compromise.

2. On 28.08.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioners seeking quashing of FIR No.5 dated 26.01.2018, registered for offences punishable under Sections 441, 436, 427, 379, 506, 148 & 149 IPC at Police Station Khuian Sarwar, District Fazilka along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioners contends that the

matter already stands compromised vide compromise dated 05.08.2022 (Annexure P-2).

Notice of motion for 22.11.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Kamal Kumar, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before the Ld. Trial Court on the next date fixed which is stated to be 13.09.2023. On their doing so, the Ld. Trial Court 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 FIR.
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. Ld. Trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

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

3. Pursuant to the aforesaid order, report from ASJ, Fazilka dated 13.10.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1) As per record of the file and as per statement of

Investigating Officer ASI Pargat Singh, there are six accused in the matter, who are the petitioners before the Hon'ble High Court.

2) As per joint statement suffered by the accused and as per statement of the Investigating Officer and as per record of the matter, none of the accused has been declared Proclaimed Offender at any stage in the matter.

3) This court is satisfied from perusal of the statements suffered by the parties that compromise has been effected between them voluntarily and without any pressure, coercion and undue influence.

4) As per statement recorded by the Investigating Officer other FIRs registered against accused/petitioner Ram Kumar son of Partap Singh are as follows:-

- (i) FIR No.67 dated 30.08.2017 Under Section 365, 341, 323, 148, 149 of IPC Police Station Khuian Sarwar;
- (ii) FIR No.1 dated 04.01.2020 Under Section 352, 379 of IPC Police Station Khuian Sarwar and
- (iii) FIR No.51 dated 20.05.2020 Under Section Canal Act Police Station Khuian Sarwar;

Following FIR is registered against accused Krishan Lal:-

- i) FIR No.67 dated 30.08.2017 Under Sections 365, 341, 323, 148, Sarwar 149 of IPC Police Station Khuian Sarwar

Following FIR is retgistered against accused Kapil Dev:-

- i) FIR No.35 dated 04.06.2013 Under Section 379, 323, 34 of IPC Police Station Khuian Sarwar

5) Statement of Investigating Officer ASI Pargat Singh has been recorded, who has clarified that complainant Jeet Kumar @ Ajit Kumar is the only victim in the matter.”

4. Ld. 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 Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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 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 26.01.2018, registered for offences punishable under Sections 441, 436, 427, 379, 506, 148 & 149 IPC at Police Station Khuian Sarwar, District Fazilka (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

February 22, 2024	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No