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

CRM-M No.42357 of 2023
Date of decision : 13.02.2024.

Jaswinder Singh and ors.

...Petitioners

Versus

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Anureet S.Sidhu, Advocate
for the petitioners.

Mr. Jasjit Singh, DAG Punjab.

Mr. Arpit Gaur, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioners are seeking quashing
of FIR No.0045 dated 25.04.2019 registered under Sections 323, 341, 506,
148, 149 of IPC (Section 201 added later on), at Police Station Julkan, Distt.
Patiala and all consequent proceedings arising therefrom on the basis of
compromise.

2 On 25.08.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of FIR No.0045 dated 25.04.2019 registered for offences punishable under Sections 323, 341, 506, 148 and 149 of IPC, 1860 (Section 201 IPC added later on), at Police Station Julkan, District Patiala and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter

already stands compromised vide compromise/affidavit dated 21.08.2023 (Annexure P-2).

Notice of motion for 08.11.2023.

Mr. Tarun Aggarwal, Sr. DAG Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Arpit Gaur, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on 06.09.2023.

On their doing so, the learned Illaqa Magistrate/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. The 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 learned Illaqa Magistrate/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 dated 16.09.2023 from Judicial Magistrate 1st Class, Patiala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. It is respectfully submitted that in compliance with above referred order, Jagwalt Singh i.e. respondent and Jaswinder

Singh, Jagdish Singh, Piara Singh, Harpreet Singh and Gurpreet Singh i.e. petitioners to the above petition, have appeared before this Court and their statements have been recorded on 06.09.2023 and 11.09.2023.

2. It is submitted that complainant Jagwant Singh has got recorded his statement he has got registered an FIR No.45 dated 25.04.2019 U/s 323, 341, 506, 148 and 149 of IPC and Section 201 added lateron, P.S. Julkan, District Patiala, against the accused namely Jaswinder Singh son of Piara Singh, Piara Singh, Harpreet Singh, Gutpreet Singh alias Dipi and Jagdish Singh, all residents of village Manimajra, Police Station, Julkan, District Patiala. Now, with intervention of respectable members of the family, he has compromised the matter with the said accused vide affidavit dated 21.08.2023 which is Mark-A. (Original is placed before the Hon'ble High Court). He further stated that no accused has been declared proclaimed offender in this case and the said compromise has been effected without any pressure or coercion and he has no objection if the said FIR against accused is quashed. He has produced copies of his Aadhar Cards as Ex.CI.

3. Similarly, accused persons namely Jaswinder Singh, Jagdish Singh, Piara Singh, Harpreet Singh and Gurpreet Singh, all residents of village Malimajra, PS Julkan, District Patiala, have got recorded their separate statements that they have heard the statement of complainant and same is correct. They further stated that the instant FIR was registered against them by complainant and now with the intervention of the respectable members of the family, complainant has compromised the matter with them vide affidavit dated 21.08.2023 which is Mark A. They further stated that no accused has been declared proclaimed offender in this case or in any other case and no other criminal case is pending against them and the FIR against them be quashed. They have produced copies of their Aadhar Cards as Ex.C2 to Ex.C6.

4. Further, ASI Lakhwinder Singh, No.1473/Patiala, has suffered his statement on 12.09.2023 that he is the investigating officer of present FIR No.45 dated 25.04.2019 U/s 323, 341, 506, 148, 149 IPC, Section 201 IPC added lateron, P.S. Julkan District Patiala. The present case was got registered by complainant Jagwant Singh against five accused persons namely Jaswinder Singh son of Piara Singh, Piara Singh, Harpreet Singh. Gurpreet Singh alias Dipi and Jagdish Singh, all residents of village Malimajra, Police station, Julkan, District Patiala and they have not been declared proclaimed offender in this case. He further stated that no other criminal case is pending against the accused persons in any court and there is only one complain agat Singh and challen has been presented before the court.

5. In view of the above referred statements, after hearing the parties and going through the record, report is submitted as under:-

(i) That there are the five accused persons namely Jaswinder Singh son of Piara Singh, Piara Singh, Harpreet Singh, Gurpreet Singh alias Dipi and Jagdish Singh.

(ii) That none of the accused has been declared a Proclaimed Offender.

(iii) That the compromise effected between the parties is genuine, voluntarily, without any coercion or undue influence.

(iv) That the accused persons are not involved in any other case.

(v) That as per statement of IO, there is only one complainant/victim namely Jagwant Singh.

6. Report in the matter is accordingly submitted for kind consideration and for further necessary directions, if any. Statements and documents referred above, are also enclosed herewith for kind consideration.”

4 Learned counsel for respondents 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 (**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 recognizing compromise between 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 wiser 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.0045 dated 25.04.2019 registered under Sections 323, 341, 506, 148, 149 of IPC (Section 201 added lateron), at Police Station Julkan, Distt. Patiala and all

proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

13.02.2024
spn

(PANKAJ JAIN)
JUDGE

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