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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.42969 of 2023

Date of decision : 04.04.2024

Kewal Singh

Versus

....Petitioner

State of Punjab and anr.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Imran Farooqi, Advocate
for the petitioner.
(proceeded through V.C.)

Mr. J.S.Arora, DAG, Punjab.

Mr. Naveen Kumar, Advocate
for Mr. Karan Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1

By way of present petition, the petitioner is seeking quashing of FIR No.107 dated 01.11.2021 registered under Sections 325, 323, 341, 201 and 34 of IPC, at Police Station Sandaur, District Malerkotla and all consequent proceedings arising therefrom on the basis of compromise.

2

On 11.01.2024, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioner is seeking quashing of FIR No.107 dated 01.11.2021, registered for offences punishable under Sections 325, 323, 341, 201 and 34 of IPC, 1860 at Police Station Sandaur, District Malerkotla and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioner contends that the matter already stands compromised vide

*compromise/affidavit dated 21.08.2023 (Annexure P-2).
Notice of motion for 04.04.2024.*

Mr. Kunal Vinayak, AAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Naveen Kumar, Advocate for Mr. Karan Singh, Advocate appears for 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 21.02.2024.

On their doing so, the learned Illaqa Magistrate/Duty 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/Duty 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 27.02.2024 from Judicial Magistrate 1st Class, Malerkotla has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“As per the order dated 11.01.2024 passed by Hon'ble Punjab and Haryana High Court in CRM-M-42969 of 2023 in case titled as Kewal Singh Vs. State of Punjab & anr. FIR No.107 dated 01.11.2021 under

Sections 325, 323, 341, 201, 34 IPC registered at Police Station Sandaur, District Sangrur (now District Malerkotla), the statements of both parties ie complainant/injured and accused have been recorded. The complainant Shiv Singh and accused Kewal Singh have stated that they have effected a compromise with the intervention of the elders and relatives. Complainant has submitted that the compromise is genuine, voluntarily and without any coercion and undue influence. He further submitted that he has no objection if the present FIR be quashed against accused Kewal Singh only. The statement of complainant and accused reflects that they have settled the matter and compromise effected between them is genuine, voluntarily and without any kind of undue influence and coercion. They also produced on record copy of their Adhaar Card.

i. As per statement of Investigating Officer SI Yash Pal/1512/SAS and as final report U/s 173 Cr.P.C submitted in Court and as per record available in hand, there are total three accused namely Kewal Singh, Hapreet Singh @ Joga Singh and Parminder Singh @ Kala are arrayed as accused in the present FIR.

ii. As per statement of Investigating Officer SI Yash Pal/1512/SAS, none of the accused is declared proclaimed person in the present FIR nor any such proceedings have been initiated or pending against them.

iii. As per statements of both the parties, they have compromised the matter with the intervention of elders and relatives. I am satisfied that compromise effected between them is genuine, voluntarily and without any undue influence or coercion.

iv. As per statement of IO and statement of accused Kewal Singh, accused persons of the present FIR are not involved in any other criminal case.

v. As per statement of IO, there is only one victim namely Shiv Kumar, who is also complainant in the present FIR.

Report is hereby submitted with regards.”

4 The aforesaid report reveals that there are total **three** accused persons.

5 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 petitioner is quashed.

6 Similarly, learned State counsel has stated no objection in case
the FIR is quashed based upon the compromise (**Annexure P-2**).

7 I have heard learned Counsel for the parties and have carefully
gone through the records of the case.

8 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 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 wide
and 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.

9 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.

10 Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, and it is only accused-petitioner who has approached this Court by way of present

petition, the present petition is being entertained and allowed *qua* him only.

11 The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '***Lovely Salhotra and another vs. State (NCT of Delhi)***' reported as ***(2018) 12 SCC 391***, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12 Consequently, the petition is allowed. FIR No.107 dated 01.11.2021 registered under Sections 325, 323, 341, 201 and 34 of IPC, at Police Station Sandaur, District Malerkotla and all proceedings arising therefrom are hereby partially quashed *qua* the petitioner.

04.04.2024
spn

(PANKAJ JAIN)
JUDGE

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