

CRM-M-46162-2022
Date of decision : 30.01.2024

...Petitioners

...Respondents

The State counsel apprised the Court that the amount in question has been repaid and original documents of title of the property in question are

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returned to its owner (complainant) and now the said complainant is in possession of aforesaid property and further the matter stands compromised between the parties.

Today petitioner No.2 Nathuni Ram is present in the Court and he also apprised that the matter has been amicably settled between the parties.

Notice of motion.

On the asking of the Court, Mr. Naveen Kumar Sheoran, DAG, accepts notice on behalf of State of Haryana and submits that status report filed on behalf of the State is already taken on record.

In view of the above, parties are directed to appear before the learned trial court/Illaq Magistrate on **12.4.2023** or any other date convenient to the Court and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate, is directed to send the same along with its report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts : -

1. Number of persons arrayed as accused in the FIR.
2. Whether any accused is proclaimed offender.
3. Stage of the trial/proceedings.
4. Whether the compromise is genuine, voluntary and without any coercion or

undue influence.

5. Total number of victims and their names.

To come up on **18.5.2023** for awaiting the report.

Even the Investigating Officer, who is present in the Court is directed to convey to respondents No.2 and 3 to appear in person before this Court on the next date of hearing.

A copy of this order be sent to the learned trial Court/Illaqa Magistrate, through electronic mode, for compliance.”

3. Pursuant to the aforesaid order, report from JMIC, Sohna dated 17.04.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xxx xx

Que.1: Total number of persons arrayed as accused in the case.

Ans. There are two accused namely Laxmi Devi w/o Sh. Nathuni Ram and Nathuni Ram son of Sh. Samaru Ram in the present case.

Que.2: Whether any of the accused has been declared a proclaimed offender or any such proceeding have been initiated or pending decision.

Ans. In the present FIR no accused has been declared as proclaimed offender.

Que.3: Stage of trial/ proceeding in the present case.

Ans. At this stage present case was fixed for prosecution evidence.

Que.4: Whether the compromise is genuine, voluntarily and without any coercion or undue influence.

Ans. : Yes.

Que.5: Total number of victims and their names?

Ans: Two victims in this present FIR and their names ie. Mithilesh wife of Sh. Shyam and Shyam Singh son of Puran Singh, R/o Village Rithoj. Tehsil Sohna. District Gurgaon (Gurugram)”

4. Counsel appearing for respondents No.2 & 3 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.

6. I have heard 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.114 dated 19.09.2012 registered for the offences punishable under Sections 120-B, 420, 467, 468 and 471 of IPC at Police Station Bhondsi, District Gurugram and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

30.01.2024
Dinesh

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No