

282 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.44931 of 2023 (O&M)
Date of decision : 27.02.2024

Major Singh & ors.Petitioners
Versus
State of Punjab & anr.Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vishnu Dutt, Advocate
for the petitioners.

Mr. Harish Mehla, AAG, Punjab.

Respondent No.2 in person.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioners are seeking quashing of FIR No.212, dated 17.12.2020, registered under Sections 323, 325, 34 IPC at Police Station Navi Baradari, District Police Commissionerate Jalandhar and Annexure P-2/T and all consequent proceedings arising therefrom on the basis of compromise.

2 On 12.09.2023 the following order was passed:

“This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing FIR No.212, dated 17.12.2020, registered under Sections 323, 325, 34 IPC at Police Station Navi Baradari, District Police Commissionerate Jalandhar and Annexure P-2/T and all subsequent proceedings arising therefrom on the basis of the compromise Annexure P-3.

Notice of motion.

On the asking of the Court, Ms. Himani Arora, AAG, Punjab appears and accepts notice on behalf of the respondent-State.

In view of the submissions made on behalf of the parties, they are directed to appear before the Illaqa Magistrate for recording their statements qua the compromise within a period of 15 days.

The trial Court/Illaqa Magistrate is directed to record the statements of the parties and submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 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 FIR 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.*

Adjourned to 02.11.2023.”

3 Thereafter on 02.11.2023 the following order was passed :-

CRM-45770-2023

By way of instant application, applicants/petitioners pray for one more opportunity for recording of statements w.r.t. compromise.

*For the reasons recorded in the application, one more opportunity is granted to the parties to appear before the Illaqa Magistrate/ Trial Court on **22.11.2023** pursuant to order dated 12.09.2023 for recording of their statements w.r.t. compromise arrived at between them.*

Application stands disposed off.

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*For awaiting report from the Illaqa Magistrate/Trial Court, list on **27.02.2024**.*

4 Pursuant to the aforesaid order, report dated 25.01.2024 from Judicial Magistrate 1st Class, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

1	Total number of person arrayed as accused in FIR	At the time of registration of FIR there was only one accused namely Major Singh. The other four accused namely Jaspreet Singh, Jasvir Singh, Suresh Khurana and Jaspreet Singh Khurana were later on summoned under Section 190 Cr.P.C. i.e.
2	Whether any accused is proclaimed offender.	No
3	Whether the compromise is genuine, voluntary and without any coercion or undue influence.	The compromise of the complainant Simranjit Singh with accused Major Singh and other four accused summoned later on namely Jaspreet Singh, Jasvir Singh, Suresh Khurana and Jaspreet Singh Khurana is genuine, voluntary and without any coercion or undue influence.
4	Whether the accused persons are involved in any other FIR or not.	No
5	The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complaints are there in the FIR.	Yes. There is only one victim/complainant namely Simranjit Singh in present case.

5 Respondent No.2, who is present in person 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.

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 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.

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 Consequently, the petition is allowed. FIR No.212, dated 17.12.2020, registered under Sections 323, 325, 34 IPC at Police Station Navi Baradari, District Police Commissionerate Jalandhar and Annexure P-2/T and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

27.02.2024
pooja sharma-I

(PANKAJ JAIN)
JUDGE

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