

CRM-M-46295-2023

Amritpal Singh alias Peter

Versus

State of Punjab and another

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Yajur Sharma, Advocate
for the petitioner.

Mr. J.S. Arora, DAG Punjab.

Ms. Hakikat S.Grewal, Advocate
For respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioner is seeking quashing of
FIR No. 0042 dated 27.03.2023 registered under Sections 506 of IPC,
1860 and Sections 25 and 27 of Arms Act, 1959, at Police Station
Chhathiwind, District Amritsar Rural and all consequent proceedings
arising therefrom on the basis of compromise.

2 On 15.09.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.0042 dated 27.03.2023, registered for offences punishable

under Sections 506 IPC and Sections 25/27 of Arms Act, at Police Station Chattiwind, District Amritsar Rural.

Learned counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 05.12.2023.

On asking of the Court, Mr. Tarun Aggarwal, Sr. DAG Punjab accepts notice on behalf of respondent No.1-State. Mr. Hakikat S. Grewal, 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, both the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 05.10.2023. On their doing so, the learned Duty Magistrate/Illaq 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 Duty Magistrate/Illaq 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 10.11.2023 from Judicial Magistrate 1st Class, Amritsar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. It is humbly submitted that in compliance of the order dated 15.09.2023 passed in case referred above by Hon'ble Punjab & Haryana High Court, this Court recorded the statement of Sucha Singh (complainant) along-with the statement of petitioner/accused person namely Amritpal Singh, with regard to the compromise.

2. The complainant was identified by Sh. Varinder Singh, Advocate and the accused person was identified by the counsel Sh. Harkirat Singh Advocate. Both the parties to the case have suffered statements that with the intervention of the respectable persons, they have voluntarily entered into a compromise without any undue influence, coercion or force; out of their free will.

3. Moreover, this court also recorded the statement of the Officer of the case namely ASI Angrej Singh no. 75 Amritsar (Rural) posted at Police Station Chattiwind, Amritsar. The report of this court is hereby submitted as under:

(i) There is only person arrayed as accused in the FIR namely Amritpal Singh;

(ii) None of the accused persons has been declared proclaimed offender in this case;

(iii) This Court is satisfied that the compromise is genuine, voluntary and out of free will of the parties;

(iv) The accused is also involved in others FIRs i.e. (1) FIR no.13 dated 29.01.2023, under Section 307/323/427/506/148/149 of IPC and 25/27/54 Arms Act, P.S. Chattiwind. (2) FIR No. 93 dated 04.04.2023, under Section 363/427/506 of IPC and 25/27/54/59 of Arms Act, P.S. Chattiwind, (3) FIR No.110 dated 02.08.2023 Under Section 21/61/85 NDPS Act, P.S. Chattiwind and (4) FIR No.91 dated 03.05.2022 under Section 365 of IPC, P.S. Chheharta Amritsar; and

(v) *There is only one victim/complainant in the FIR namely Sucha Singh.*

4. *The statements of the parties and the investigating officer are attached herewith. The report is hereby submitted please for your kind perusal. I am highly obliged.”*

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 petitioner is 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. 0042 dated 27.03.2023 registered under Sections 506 of IPC, 1860 and Sections 25 and 27 of Arms Act, 1959, at Police Station Chhathiwind, District Amritsar Rural and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

08-04-2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable : No