

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

294

CRM-M-47070-2023

Date of decision : 29.01.2024

Dheeraj @ Dheeru @ Dheeraj Yadav**..... Petitioner****versus****State of Haryana and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. J.P. Jangu, Advocate
for the petitioner.

Mr. Sanjeev Kumar, Addl. A.G., Haryana.

Mr. D.P.S. Joura, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. Reply by way of affidavit of Priyanshu Dewan, HPS, Assistant Commissioner of Police, Badshahpur, Gurugram has been filed on behalf of respondent No.1-State. The same is taken on record.
2. By way of present petition, the petitioner is seeking quashing of FIR No.354 dated 03.08.2023, registered for offences punishable under Sections 147, 149, 323 and 506 of IPC at Police Station Badshahpur, District Gurugram on the basis of compromise deed dated 29.08.2023 (Annexure P-2).
3. On 17.10.2023, 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.354 dated 03.08.2023, registered for offences punishable under Sections 147, 149, 323, 506 of the Indian Penal

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Code, 1860 at Police Station Badshahpur, District Gurugram and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 29.01.2024.

Mr. Gaurav Bansal, DAG, Haryana. appears and accepts notice on behalf of respondent No.1-State.

Mr. DPS Jaura, Advocate appears and accepts notice on behalf of respondents No.2 and 3 and admits the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate on 02.11.2023. On their doing so, the learned Trial Court/Duty Magistrate 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.

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Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.”

4. Pursuant to the aforesaid order, report dated 08.11.2023 from JMIC, Gurugram has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

1. Only one person namely Dheeraj has been arrayed as accused in the FIR.

2. As per the record and statement of investigating officer, the accused has not been declared as proclaimed person/offender.

3. Upon perusal of the statements recorded in court on behalf of all the parties and upon oral inquiry from the parties, this court is of considered and confirmed view that compromise stated to be effected between the parties is genuine, voluntary and out of free will, without any pressure or influence from any side.

5. As per the statement of the investigating officer and record, the accused is involved in other FIRs which are detailed as following:

- a. FIR No. 690/2015, U/S 148, 149, 302 IPC and U/S 25 of Arms Act. PS, Sector-10, Gurugram,
- b. FIR No. 358/2017 U/S 387, 307, 206, 341 IPC and U/S 25 of Arms Act PS. New Colony, Gurugram.
- c. FIR No. 578/2017 U/S 379A IPC and U/S 25 of Arms Act PS. Badshahpur, Gurugram.
- d. FIR No. 219/2017 U/S 302, 307 IPC and

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- U/S 25 of Arms Act PS. Sector-10, Gurugram,
- e. FIR No. 41/2019 U/S 42(A) Prison Act PS. Bhondsi. Gurugram,
 - f. FIR No. 58/2019 U/S 42(A) Prison Act PS. Bhondsi, Gurugram,
 - g. FIR No. 71/2019 U/S 506 of IPC PS. Khedki Daula, Gurugram,
 - h. FIR No. 92/2022 U/S 323, 341, 386, 427, 506 and 34 of IPC PS. Khedki Daula, Gurugram and
 - i. FIR No. 152/2023 U/S 386, 147, 149, 323, 34, 506 of IPC PS. Khedki Daula, Gurugram.”

5. Mr. D.PS. Joura, Advocate appears 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 petitioner are quashed.

6. Learned State counsel has stated no objection in case the FIR is quashed based upon the compromise.

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 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.*

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

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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.*
- (vi) *Though the petitioners already stand convicted yet in view of law laid down by the Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.*

10. Though the petitioner-accused is involved in 09 other FIRs, keeping in view the nature of allegations levelled in the FIR and the fact that the parties are admitted to have arrived at a compromise, the present petition is allowed. FIR No.354 dated 03.08.2023, registered for offences punishable under Sections 147, 149, 323 and 506 of IPC at Police Station Badshahpur, District Gurugram and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

29.01.2024

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No