

286

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.54180 of 2021

Date of decision : 05.02.2024

Kumar Gaurav

Versus

....Petitioner

State of Punjab and anr.

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Bhuwan Vats, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG Punjab.

Mr. Rajiv Rathor, Advocate
for Mr. Saurabh Chobey, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

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By way of present petition, the petitioner is seeking quashing of FIR No.47 dated 23.03.2019, registered under Sections 420 and 120-B of IPC, at Police Station Goraya District Jalandhar Rural and all consequent proceedings arising therefrom on the basis of compromise.

2

On 28.07.2023, 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.47, dated 23.03.2019, registered for offences punishable under Sections 420, 120-B IPC of the Indian Penal Code, 1860 at Police Station Goraya, District Jalandhar Rural and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter a'ready stands compromised vide Annexure P-2. He relies upon law laid down by Apex Court in Lovely Salhotra & anr. Vs. State, NCT of Delhi (2018) 12 SCC 391 to submit that in such circumstances partial quashing is permissible.

In view of the above, the parties are directed to appear before learned Trial Court/Duty Magistrate on 23.08.2023. 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 statemen 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 Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.

For awaiting report of Trial Court, list on 12.10.2023.”

3 Pursuant to the aforesaid order, report dated 01.02.2024 from Judicial Magistrate Ist Class, Phillaur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“With reference to the subject cited above, it is most humbly reported that in compliance of order dated 12.10.2023 passed by the Hon'ble Punjab & Haryana High Court in CRM-M-54180-2021 in case titled as "Kumar Gaurav Vs State of Punjab and another" passed by Hon'ble Punjab & Haryana High Court, the undersigned was directed to record the statements of the parties with regard to the compromise arrived between them. Parties were directed to appear before this court on 18.12.2023. All parties to the petition appeared on 18.12.2023 and suffered their statements in support of the compromise before the undersigned. Investigating Officer in this case also appeared and submitted his report. As per their statements and in view of the directions of the Hon'ble High Court following observations have been made.

(1) As per record and statement of Investigating Officer, there are

two accused persons in the present FIR namely Kumar Gaurav son of Ashwani Kumar R/o Ranvir Nagar, Goraya and Jaswinder Singh son of Ujagar Singh R/o House No. 1463 Street No. 07 Karnail Singh Nagar Phase-II, Pakhowal Road, Ludhiana.

(2) As per report and record of Investigating Officer, none of the accused persons has been declared as a proclaimed offender.

(2) It has been stated by the accused and attorney of complainant that the matter has been compromised between the complainant and accused Kumar Gaurav only.

I am satisfied that the compromise is genuine between the parties and the same is outcome of their own freewill and without any force, coercion or undue influence.

(4) As per the statement of investigating officer, the accused person is not involved in any other FIR.

(5) As per statement of Investigating Officer, apart from the complainant Satwant Kaur Dhillon w/o Nirmal Singh Dhillon, there are two more victims namely Harinder Kumar s/o Ram Chander R/o House no. 07 Greater Kailash, Phagwara and Surjit Sandhu s/o Darshan Ram R/o Lohgarh, PS Goraya.

Accordingly, the aforementioned report is forwarded for your kind information and necessary action."

4 The aforesaid report reveals that apart from the complainant Satwant Kaur Dhillon w/o Nirmal Singh Dhillon, there are two more accused namely Harinder Kumar and Surjit Sandhu involved in the present case.

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 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 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.47 dated 23.03.2019, registered under Sections 420 and 120-B of IPC, at Police Station Goraya District Jalandhar Rural and all proceedings arising therefrom, is hereby quashed *qua* the petitioner.

05.02.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No