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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.48782 of 2023

Date of decision : 16.01.2024.

Deepak Kumar

....Petitioner

Versus

State of Punjab and ors.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :

Mr. Gurbhagat Singh Gill, Advocate
for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. C.S. Jattana, Advocate
for respondent Nos.2 to 4.

PANKAJ JAIN, J. (ORAL)

1

By way of present petition, the petitioner is seeking quashing of FIR No.98 dated 15.03.2023, registered under Sections 420, 408, 465, 467, 468, 471 of Indian Penal Code, at Police Station City Faridkot, District Faridkot (Annexure P-1) on the basis of compromise by way of affidavit dated 22.09.2023 (Annexure P-2 to Annexure P-4).

2

On 31.10.2023 the following order was passed:

“At the outset, counsel for the petitioner submits that accused- respondents No.5 to 7 have been inadvertently mentioned in the Memorandum of Parties. On his request, respondents No.5 to 7 are ordered to be deleted from the array of parties.

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.98 dated 15.03.2023, registered for offences under

Sections 420, 408, 465, 467, 468 and 471 of the Indian Penal Code, 1860, at Police Station City Faridkot. District Faridkot, Annexure P-1, along with all subsequent proceedings arising therefrom, on the basis of the compromise by way of affidavits dated 22.09.2023, Annexures P-2 to P-4, executed by respondents No.2 to 4.

Counsel for the petitioner submits that FIR, Annexure P-1, is an outcome of a misunderstanding between the parties, which has been removed. By making a reference to affidavits, Annexures P-2 to P-4, he submits that the dispute has been amicably settled.

Notice of motion.

On asking of the Court, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of State-respondent No.1.

Mr. C.S.Jattana, Advocate has put in appearance and accepts notice on behalf of respondents No.2 to 4. He has filed Vakalatnama on behalf of respondent No.2, which is taken on record. He submits that the FIR, Annexure P-1, qua co-accused, Balwinder Singh, has been quashed by order dated 26.05 2023, Annexure P-5, on the basis of a settlement, He has admitted the factum of compromise and supports the prayer made in the petition.

The parties and the Investigating Officer are directed to appear before the Area Magistrate Trial Court on 01.12.2023 or on any day thereafter as fixed by the Trial Court, for getting their statements recorded with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of*

free will of the parties;

5. whether any other criminal case is pending against the accused.

Report of the Area Magistrate/Trial Court be awaited for 16.01.2024.”

3 Pursuant to the aforesaid order, report dated 02.01.2024 from Chief Judicial Magistrate, Faridkot has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(A). Sh.Amanpreet Singh, Advocate suffered statement that :-

“I produce and identify complainant party Karandeep Singh Sran and witness Jagsir Singh and Rajwinder Singh.”

(B). Complainant Karandeep Singh Sran, Jagsir Singh and Rajwinder Singh has suffered joint statement that:-

"Stated that the present FIR was registered on the statement of Karandeep Singh Sran. We have compromised with the accused Deepak Kumar in the above said FIR.

1. There are four accused in this FIR namely Satveer Kaur, Paramjeet Singh Brar, Deepak Kumar and Balwinder Singh

2. We have compromised with accused Deepak Kumar. Except us there are no other complainant or aggrieved party in this case.

3. The compromise is genuine, voluntary and without any coercion or undue influence with free consent. I have no objection if FIR is quashed against the accused Deepak Kumar. "

(C) Accused-

1. Deepak Kumar has suffered statement that:-

"Stated that accused Deepak Kumar have compromised with complainant Karandeep Singh Sran, Jagsir Singh and Rajwinder Singh. The compromise is voluntary with free consent.

1. There are four accused in this FIR namely Satveer Kaur, Paramjeet Singh Brar, Deepak Kumar and Balwinder Singh

2. No accused is P.O in this FIR.

3. The compromise is voluntary with free consent.

4. I am not involved in any other case.

5. Challan is yet to be presented in this case. "

(D) ASI Raj Singh, No.112/FDK, PS City Faridkot has suffered statement that-

"Stated that I am the investigating officer of this case. There are

four accused in this FIR namely Satveer Kaur, Paramjeet Singh Brar, Deepak Kumar and Balwinder Singh. Challan is yet to be presented in this case. There is no accused declared proclaimed offender. "

The undersigned is satisfied that the statement has been made by the parties with free consent without any coercion or undue influence or fear. The original statements of persons as mentioned above is attached alongwith.

Report is submitted accordingly."

4 Learned counsel for respondents No.2 to 4 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 by way of affidavit dated 22.09.2023 (**Annexure P-2 to Annexure P-4**).

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.98 dated 15.03.2023, registered under Sections 420, 408, 465, 467, 468, 471 of Indian Penal Code, at Police Station City Faridkot, District Faridkot (Annexure P-1) on the basis of compromise by way of affidavit dated 22.09.2023 (Annexure P-2 to Annexure P-4) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

16.01.2024
spn

(PANKAJ JAIN)
JUDGE

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