

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

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CRM-M-50897-2022

Date of decision : 30.01.2024

Sawinder Singh and others**..... Petitioners****versus****State of Punjab and another****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Ms. Tuneet Walia, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Arjun Lakhanpal, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.34 dated 12.05.2012, registered for offences punishable under Sections 452, 427, 323, 324, 325, 326, 148 and 149 of IPC at Police Station Tarsikka, District Amritsar on the basis of compromise deed dated 03.10.2022 (Annexure P-2).

2. Learned counsel for the petitioners relies upon the judgment passed by Apex Court in the case of **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)**, to contend that this Court while exercising jurisdiction under Section 482 Cr.P.C. can quash the FIR and criminal proceedings even at the stage of post-conviction when **appeal is pending**.

3. In the case **Ram Gopal and another vs. State of Madhya Pradesh** (supra) Apex Court held as under :

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot *ipso facto* be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sub-lime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in **the context of quashing criminal proceedings, bearing in mind:**

(i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

4. On 23.11.2023, the following order was passed:-

“CRM-39373-2023

For the reasons stated in application, same is allowed. Document Annexure P-6 is taken on record.

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The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners are seeking quashing of FIR No.34 dated 12.05.2012, registered for offences punishable under Sections 452, 427, 323, 324, 325, 326, 148, 149 IPC at P.S. Tarsikka along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 03.10.2022 (Annexure P-2).

Adjourned to 30.01.2024.

In view of the above, the parties are directed to appear before learned Chief Judicial Magistrate, Amritsar on 12.12.2023. On their doing so, the learned CJM 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 learned CJM 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 CJM shall be at liberty to call the parties on any other date but not later than a week thereafter.”

5. Pursuant to the aforesaid order, report dated 02.01.2024 from CJM, Amritsar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“XX XX XX

1. That as per statement of Investigating Officer accused Sawinder Singh, Lovejot Singh and Avtar Singh were arrayed as accused in the present FIR.
2. That as per statement of Investigating Officer accused namely Sawinder Singh, Lovejot Singh and Avtar Singh have never been declared proclaimed offender in the present FIR.
3. That the compromise between Complainant namely Malwinder Singh and accused Sawinder Singh, Lovejot Singh and Avtar Singh has been effected genuinely and voluntarily and same is found to have been made with free will of the parties.
4. That as per statement of Investigating Officer, Avtar Singh is involved in FIR No.195 of 2020 under Sections 21/22/61/85 NDPS Act PS Tarsikka and accused Sawinder Singh and Lovejot Singh are not involved in any others case.
5. That as per statement of Investigating Officer, there is only one complainant namely Malwinder Singh in the present case and except Malwinder Singh no other person is complainant or victim in the present case.”

6. Mr. Arjun Lakhanpal, Advocate appears for respondent No.2 and 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.

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

8. I have heard learned counsel for the parties and have carefully gone through the records of the case.

9. 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.*

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(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.*

10. 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.*

(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.

11. Consequently, the petition is allowed. FIR No.34 dated 12.05.2012, registered for offences punishable under Sections 452, 427, 323, 324, 325, 326, 148 and 149 of IPC at Police Station Tarsikka, District Amritsar and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

30.01.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable	No