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2024:PHHC:016552

CRM-M-49124-2023
Date of decision : 06.02.2024

Versus

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Mr. Dinesh Kumar, Advocate and
Ms. Sonika, Advocate for respondents No.2 and 3

By way of present petition, the petitioner is seeking quashing of FIR No.137 dated 11.08.2023, registered for offences punishable under Sections 458, 323, 506, 427, 148, 149 of the Indian Penal Code, 1860 (Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have been added later on) at Police Station Nehianwala, District Bathinda on the basis of compromise.

“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.137 dated 11.08.2023, registered for offences punishable under Sections 458, 323, 506,

427, 148, 149 of the Indian Penal Code, 1860 (Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 have been added later on) at Police Station Nehianwala, District Bathinda 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 06.02.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Dinesh Kumar, Advocate appears and accepts notice on behalf of respondents No.2 & 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 14.11.2023. 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.

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.”

3. Pursuant to the aforesaid order, report from JMIC Bathinda

dated 28.11.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“1. It is respectfully submitted that four accused are arrayed as accused by name in the present FIR and seven accused are unknown persons.

2. As per record, no accused has been declared as proclaimed offender.

3. It is further submitted that in view of statements given by the parties, this Court is of the considered opinion that compromise effected between the parties is genuine and it is effected voluntarily, without any coercion or undue influence with their free will from any quarter.

4. As per statement of the ASI Avtar Singh, Investigating Officer of the present FIR, accused persons are not involved in any other case/FIR.

5. As per statement of the ASI Avtar Singh, Investigating Officer of the present FIR, there are two victims/complainant namely Pravinder Kaur and Manpreet Kaur in the present FIR.”

4. Ld. Counsel appearing for respondent No.2 and 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.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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 Cr.P.C. to quash proceedings

recognizing compromise between the 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.

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.137 dated 11.08.2023, registered for offences punishable under Sections 458, 323, 506, 427, 148, 149 of the Indian Penal Code, 1860 (Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,

1989 have been added later on) at Police Station Nehianwala, District Bathinda (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

February 06, 2024
Dpr (Pankaj Jain)
Judge

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