

297 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-52059-2023
Date of decision : 08.02.2024

SAHILPREET SINGHPetitioner

Versus

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. K.P. Singh, Advocate for the petitioner.

Mr. Kunal Vinayak, AAG, Punjab.

Dr. Rabia, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of FIR No.39 dated 13.04.2023, registered for offences punishable under Sections 307/452/427/506/148/149 IPC & Sections 25/27 of Arms Act, at Police Station Kathu Nangal, Amritsar Rural (Annexure P-1) on the basis of compromise.

2. On 20.11.2023, 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.39 dated 13.04.2023, registered for offences punishable under Sections 307/452/427/506/148/149 IPC & Sections 25/27 of Arms Act, at Police Station Kathu Nangal, Amritsar Rural.

Learned counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Learned counsel for the petitioner submits that though FIR has been registered under Section 307 IPC, however, it being a no injury case, would fall within the exceptions of Section 307 IPC as carved out in *State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688*.

Notice of motion for 08.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. J.S.Mahal, Advocate for Dr. Rabia, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, both the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 21.12.2023. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court 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 Duty Magistrate/Illaq Magistrate/trial Court 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, Amritsar

dated 31.01.2024 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

- “1) As per the statement of the IO, there are eighteen accused persons in the present FIR including the present petitioner.
- 2) As per the statement of the IO, none of the accused is a proclaimed offender.
- 3) After perusing the statements of the parties, this Court is satisfied that the compromise between the petitioner and respondent No.2 is genuine, voluntary and without any coercion or undue influence.
- 4) As per the statement of the IO, the accused persons namely Gurvinder Singh @ Gogi, Vishal @ Shalu, Manjinder Singh @ Gagan, Harinder Singh Lehal @ Bitu, Danny, Joban, Jaspal Singh, Jagjit Singh, Jaspal Singh @ Jassa, Mandeep Singh @ Mannu, Jugraj Singh @ Gaji, Dilbagh Singh @ Dana, Jaspal Singh @ Kalu and **Sahilpreet Singh @ Sahildeep Singh @ Shelly/ petitioner** are involved in FIR No. 72/2023 under Sections 307/336/506/148/149 IPC read with Sections 25/27/54/59 Arms Act.
- 5) As per the statement of the IO, there is only one complainant/victim namely Mukhtar Singh/respondent No. 2 in the present FIR.”

4. Learned counsel for the petitioners submits that though FIR has been registered under Section 307 IPC, however, it being a no injury case, would fall within the exceptions of Section 307 IPC as carved out in **State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688**. He further submits that qua other co-accused persons the FIR already stands

quashed by this Court vide order dated 28th of August, 2023 in CRM-M Nos.26686 & 31450 of 2023

5. Ld. Counsel appearing for private respondents 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 present petitioner are quashed.

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

7. I have heard Ld. 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 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 not affected 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 fall within the exceptions as carved out in **Laxmi Narayan's** case (supra).
- (ii) The offences 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 has entered into compromise on his own volition.
- (vi) It is no injury case.
- (vii) Investigation stands completed.

10. Consequently, the petition is allowed. FIR No.39 dated 13.04.2023, registered for offences punishable under Sections 307/452/427/ 506/148/149 IPC & Sections 25/27 of Arms Act, at Police Station Kathu Nangal, Amritsar Rural (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the present petitioner.

February 08, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No