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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.51439 of 2023****Date of decision : 18.03.2024**

Mahinder Singh and ors.

....Petitioners

Versus

State of Punjab and ors.

.....Respondents**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN*********

Present : Mr. Simranjeet Singh Sarwara, Advocate for the petitioners.

Mr. J.S. Arora, DAG Punjab.

Ms. Kushika Setia, Advocate for respondents No.2 to 4.

*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioners are seeking quashing of FIR No.316 dated 16.11.2018 registered under Sections 452, 323, 294, 506, 148, 149 of IPC, at Police Station Derabassi, SAS Nagar Mohali (Charges u/s 452, 323, 506, 294, 201 IPC) (Annexure P-1) and all consequent proceedings arising therefrom on the basis of compromise.

2 On 10.10.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioners are seeking quashing of FIR No.316 dated 16.11.2018, registered for offences punishable under Sections 452, 323, 294, 506, 148 and 149 of IPC at Police Station Derabassi, District SAS Nagar and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 28.08.2023 (Annexure P-2).

Notice of motion for 17.01.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Ms. Khushika Setia, Advocate appears on behalf of respondents No.2 to 4 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on 06.11.2023.

On their doing so, the learned Illaqa 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 Illaqa 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 dated 18.11.2023 from Sub Divisional Judicial Magistrate, Dera Bassi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In compliance of the Order dated 10.10.2023 passed by Hon'ble Punjab & Haryana High Court, the parties appeared in the court of the undersigned for recording their statements.

Vide said order dated 10.10.2023, the Hon'ble High Court was pleased to direct the trial court to send report to the following effect:-

- (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.

The complainant namely Guljinder Singh, injured/victims/aggrieved persons Parwinder Singh & Kamla Devi and accused persons namely Mahinder Singh, Lakhwinder Singh, Joginder Singh and Nachattar Singh have appeared in the Court and the undersigned proceeded to record the statements of the parties.

In compliance of the above said Order, separate statements of the parties have been recorded. In separate statement, Guljinder Singh, the complainant, (i.e. respondent No.2 before Hon'ble High Court), has stated that present F.I.R. No.0316 dated 16.11.2018 under Sections 452, 323, 294, 506, 148 & 149 of I.P.C. Police Station Dera Bassi, District SAS Nagar, was lodged by him against accused persons namely Mahinder Singh, Joginder Singh, Nachattar Singh, Krishan Lal, Lakhwinder Singh, Chalti Devi, Rekha Devi, Runa Devi, Neelam, Nisha and Minakshi. He stated that alongwith him, Parwinder Singh son of Lal and Kamla Devi wife of Krishan Lal are also victims injured aggrieved persons in present FIR. He stated that now with the intervention of the respectables, he has voluntarily entered into compromise only with Mahinder Singh, Joginder Singh, Nachattar Singh and Lakhwinder Singh, out of his free will and without any pressure or undue influence, coercion, inducement, threat or promise from any side. He placed on record photocopy of compromise dated 28.08.2023 as Mark-A. He stated that he has no objection if the above said F.I.R. is quashed by the Hon'ble Punjab and Haryana High Court against accused Mahinder Singh, Joginder Singh, Lakhwinder Singh and Nachattar Singh.

He placed on record photocopy of his Aadhaar Card as Mark-B and was also identified by his counsel.

Separate joint statement of injured/victims/aggrieved persons namely Parwinder Singh and Kamla Devi, has also been recorded and they stated that present F.I.R. No.0316 dated 16.11.2018 under Sections 452, 323, 294, 506, 148 & 149 of I.P.C. Police Station Dera Bassi, District SAS Nagar, was lodged by Guljinder Singh son of Krishan Lal,

against accused persons Mahinder Singh, Joginder Singh, Nachattar Singh, Krishan Lal (petitioners before Hon'ble High Court), Lakhwind Singh, Chalti Devi, Rekha Devi, Runa Devi, Neelam, Nisha Minakshi. They stated that they are the injured/aggrieved persons in said occurrence. They stated that they have voluntarily entered into compromise with accused persons namely Mahinder Singh, Joginder Singh, Nachattar Singh and Krishan Lal, out of their free will and without any fraud or misrepresentation, pressure or undue influence, coercion, inducement, threat or promise. They identified their signatures on photocopy of compromise dated 28.08.2023 (Mark-A). They stated that they have no objection if the above said F.I.R. is quashed by the Hon'ble Punjab and Haryana High Court against accused persons (petitioners before Hon'ble High Court). They placed on record photocopies of their Aadhaar Cards as Mark-C and Mark-D and identified by their counsel.

Separate joint statement of accused persons namely Mahinder Singh, Lakhwinder Singh, Joginder Singh and Nachattar Singh, has also been recorded. They stated that present FIR has been registered against them including Lakhwinder Singh. Chalti Devi, Rekha Devi, Runa Devi, Neelam, Nisha and Minakshi, under Sections 452, 323, 294, 506, 148 & 149 of I.P.C. Police Station Dera Bassi, District SAS Nagar, on the statement of complainant Guljinder Singh. They stated that Parwinder Singh and Kamla Devi are also injured/ victims / affected persons in present case. However, report under Section 173 Cr.P.C. has been presented only against us under Sections 323, 294, 506, 34, 201 of I.P.C. They stated that they have voluntarily entered into compromise with the complainant Guljinder Singh and injured/victims/aggrieved persons namely Parwinder Singh and Kamla Devi, vide compromise dated 28.08.2023, out of their free will and without any fraud or misrepresentation, pressure or undue influence, coercion, inducement, threat or promise from any side. They identified their signatures on compromise (Mark-A). They submitted that present FIR may kindly be quashed against them. They placed on record photocopies of their Aadhaar Cards as Mark-E to Mark-H and were identified by their counsel.

Separate statement of Investigating Officer ASI Kuldeep Singh, No.429/SAS Nagar, has also been recorded. He stated that the present FIR has been registered on the statement of complainant Guljinder Singh against accused persons namely Mahinder Singh, Joginder Singh, Nachattar Singh, Krishan Lal, Lakhwinder Singh, Chalti Devi, Rekha

Devi, Runa Devi, Neelam. Nisha and Minakshi. He stated that except complainant Guljinder Singh, there are two other injured/victims/aggrieved persons in present FIR namely Parwinder Singh and Kamla Devi. He stated that none of the accused is declared proclaimed offender in present case. He stated that except the above said persons, no other person is involved in present case. He stated that except the present case, no other criminal case is pending against the accused persons. He stated that challan has already been presented before the Court only against accused persons namely Mahinder Singh, Joginder Singh, Lakhwinder Singh and Nachattar Singh under Sections 323, 294, 506, 34, 201 of L.P.C. and remaining persons arrayed as accused in FIR have been found innocent during investigation.

From the statements of the parties so recorded in the court, and the statement of Investigating Officer, it is reported that:-

1. As per the statements of the parties, Investigating Officer and FIR, the number of persons arrayed as accused in the FIR are 11 i.e. Mahinder Singh, Joginder Singh, Nachattar Singh, Krishan Lal, Lakhwinder Singh, Chalti Devi, Rekha Devi, Runa Devi, Neelam, Nisha and Minakshi.

2. As per the statement of accused persons and Investigating Officer, none of the accused is proclaimed offender nor any such proceedings are pending against them in present FIR.

3. As per the statements of the parties, the compromise entered between the parties is genuine, voluntarily, without any coercion of undue influence and out of free will of the parties.

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

5. As per directions of Hon'ble High Court, the statement of the Investigating Officer is also recorded. As per his statement. statement of parties and accused persons, there are two victims complainants Le. Parwinder Singh and Kamla Devi in present FIR, except complainant Guljinder Singh.

Report is submitted please."

4 The aforesaid report reveals that though initially the FIR was registered against **eleven** accused but challan was presented only against **four** accused persons.

5 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 eight petitioners 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 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 wide 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-petitioners who have approached this Court by way of present petition, the present petition is being entertained and allowed *qua* them 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.316 dated 16.11.2018 registered under Sections 452, 323, 294, 506, 148, 149 of IPC, at Police Station Derabassi, SAS Nagar Mohali (Charges u/s 452, 323, 506, 294, 201 IPC) (Annexure P-1) and all proceedings arising therefrom, are, hereby, partially quashed *qua* the petitioners.

18.03.2024

spn

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No