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CRM-M-54540-2022 (O&M)
Date of decision : 12.02.2024

Prem Bansal and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Akshay Jindal, Advocate
for the petitioners.

Mr. Puru Jarewal, AAG, Punjab.

Mr. Bipan Ghai, Senior Advocate with
Mr. Nikhil Ghai, Advocate and
Mr. Prabhdeep Singh Bindra, Advocate
for respondent No.8.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioners are seeking quashing of FIR No.146 dated 16.03.2022, registered for the offences punishable under Sections 420 and 120-B of IPC at Police Station Zirkpur, SAS Nagar (Annexure P-7).
2. Counsels are *ad idem* that the petitioners has paid an amount of Rs.55 lakhs to the complainant and complainant has handed over original agreement to sell as well as GPA in original to the counsel representing the petitioners. Copy of the aforesaid documents has been produced. The same is taken on record as mark ‘X’ colly.
3. Counsels admit that so far as the present agreement to sell which is subject matter of present FIR is concerned, all the disputes between the parties, civil or criminal have been laid to rest and none of the parties shall invoke any lis qua this transaction. Counsel for the complainant submits that they have no objection for quashing of FIR.

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4. Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceedings in 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.

5. 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 the present matter does not fall within the exceptions as carved out in **Laxmi Narayan's** case (supra) i.e. heinous offence. The matter primarily relates to agreement to sell, thus the offence is purely of private nature. The parties have compromised. Amount stands paid which has been validly accepted by the complainant voluntarily without any coercion, undue influence etc. Apart from that, offence under Section 420 is compoundable, though with the permission of Court.

6. In view of above, the present petition is allowed. FIR No.146 dated 16.03.2022, registered for offences punishable under Sections 420 and 120-B of IPC at Police Station Zirakpur, District SAS Nagar is hereby ordered to be quashed.

7. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

12.02.2024
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	No