

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

286

CRM-M No.51726 of 2023
Date of decision: 13.03.2024

Rinku Gill and anr.

....Petitioners

Versus

State of Haryana and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Lakhwinder Singh Dandiwal, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Mr. Balkar Singh, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioners are seeking quashing of FIR No.92 dated 05.05.2023 registered under Sections 406, 420, 506 of IPC, at Police Station Farkpur, District Yamuna Nagar and all consequent proceedings arising therefrom on the basis of compromise.

2 On 12.10.2023, the following order was passed:

“1. This is a petition under Section 482 Cr.P.C. for quashing of case FIR No.92 dated 05.05.2023, under Sections 406, 420, 506 of IPC, 1860 registered at Police Station Farkpur, District Yamuna Nagar and all other subsequent proceedings arising therefrom on the basis of compromise.

2. Notice of motion.

3. Mr. Rajiv Sidhu, Deputy Advocate General, Haryana puts in appearance on behalf of respondent No.1-State and Mr. Kapil Gupta, Advocate with Ms. Shefali Bahia Goyal, Advocate puts in appearance on behalf of respondent No.2 and accepts notice.

4. In view of the above, both the parties are directed to appear before the trial Court/Illaq Magistrate/Duty Magistrate concerned for

recording their statements on or before 31.10.2023.

5. The trial Court is directed to submit a report on or before the next date of hearing, containing the following information:-

- 1. Number of persons arrayed as accuse in the FIR?*
- 2. Whether any accused is proclaimed person?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 6. For report, list on 17.11.2023.”*

3 Pursuant to the aforesaid order, report dated 06.11.2023 from District and Sessions Judge, Yamuna Nagar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is humbly submitted that statements of the parties to the petition in compliance of order dated 12.10.2023 passed by Hon'ble Punjab and Haryana High Court in CRM-M-51726 of 2023 has been recorded by me.

In the above matter both the parties appeared in compliance of order dated 12.10.2023 passed by Hon'ble High Court of Punjab & Haryana, wherein it is ordered that:

"both the parties are directed to appear before the trial Court/Ilaga Magistrate/Duty Magistrate concerned for recording of their statements on or before 31.10.2023.

The trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused in the FIR?*
- 2. Whether any accused is a proclaimed person?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*

2. On oral inquiry both the parties have stated that the matter has been settled amicably without any pressure, undue influence or coercion in any manner. I also specifically inquired from Pinki Rani wife of Narender Kumar i.e. special power of attorney holder of complainant Narender Kumar about the validity of compromise. She stated that the compromise arrived at in the said matter is voluntarily and without any kind of undue influence or coercion. Statements of Pinki Rani and the accused persons regarding compromise recorded. Same are attached herewith. The report is as follows:-

3. 1. Number of persons arrayed as accused in the FIR?

It is submitted that as per statement of SI Rai Singh, no. 166/A (Investigating Officer), total four accused persons namely Rinku Gill son of Janta Singh, Jagseer Kumar @ Jangseer son of Jagdish Chand, Pooja Bhatia wife of Vikram Singh and Harry Gill @ Harry Grewal son of Kaka Singh were arrayed as accused in the present FIR.

2. Whether any accused is a proclaimed person?

It is submitted that as per statement of SI Rai Singh, no. 166/A (Investigating Officer), none of the accused has been declared proclaimed person in the present case.

3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?

It is submitted that I am satisfied that the matter has been settled between the parties to the petition i.e. Pinki Rani and two accused persons namely Rinku Gill and Jagseer Kumar @ Jangseer amicably/voluntarily. Thus, the compromise between the above named persons in the present case is genuine, voluntary and without any coercion or undue influence.

4 The aforesaid report reveals that there are total **four** accused persons.

5 Learned counsel for respondents No.2 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 two petitioners namely Rinku Gill and Jagseer Kumar @ Jagseer is quashed.

6 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (**Annexure P-3**).

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 wider 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.92 dated 05.05.2023 registered under Sections 406, 420, 506 of IPC, at Police Station Farkpur, District Yamuna Nagar and all proceedings arising therefrom are hereby partially quashed *qua* the petitioners.

13.03.2024
spn

(PANKAJ JAIN)
JUDGE

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