

already stands compromised vide Annexure P-2.

Notice of motion for 05.02.2024.

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

Mr. Parvez Akhtar Dhaliwa, 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, 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 dated 29.11.2023 from Judicial Magistrate 1st Class, Moonak (Sangrur) has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In reference to subject above cited and reference to order dated 18.10.2023, passed by the Hon'ble Punjab and Haryana High Court, I have the honour to submit that as per direction of Hon'ble High Court, complainant namely Sukhchain Singh son of Harbhajan Singh, resident of

ward no.6. Khanauri, District Sangrur and accused namely Balbir Singh son of Lal Singh resident of Street no.6, Gurdeep Nagar, Jagraon, District Ludhiana have appeared on 14.11.2023 before Court and got their statements recorded. Retired Inspector Dharambir Singh son of Maru Ram resident of H.No. 3393 Urban Estate Jind (Haryana) appeared on 16.11.2023 and got statement recorded. As per their statements, my report as desired is as under:-

(i) As per the statement of IO, Earlier there were two accused namely Balwant Singh son of Gurcharan Singh, resident of Chhapar, District Ludhiana and Balvir Singh son of Lal Singh resident of Jagraon, District Ludhiana in the present FIR. Present FIR was quashed by Hon'ble Punjab and Haryana High Court against accused Balwant Singh in CRM-M- 15800 of 2019 vide order dated 22.12.2021.

ii) As per the statement of IO, no accused has been absconded or declared proclaimed offender in this case.

iii) As per the statement of IO, the compromise between the parties is genuine, voluntarily, out of free will of the parties.

iv) As per the statements of IO, accused are not involved in any other case.

v) As per the statement of IO, there is only one victim namely Sukhchain Singh son of Harbhajan Singh resident of Khanauri. ”

4 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 petitioner is quashed.

5 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-2).

6 I have heard learned 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 of the Code to quash proceeding 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.57 dated 18.06.2016, registered under Sections 420, 406, 120-B, 465, 467, 468, 201 of IPC at Police Station Khanauri, Distt. Sangrur and all proceedings arising therefrom is hereby quashed *qua* the petitioner.

05.02.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No