

Date of Decision : 22-04-2024

.....Petitioner

State of Punjab and anr.Respondent(s)

Present:- Mr. S. S. Randhawa, Advocate for the petitioner.

Mr. J.S. Arora, DAG Punjab.

Mr. Pankaj Bains, Advocate for respondent No.2.

1. By way of present petition, the petitioner is seeking quashing of FIR No25 dated 09.02.2023 registered for offences punishable under Sections 336 of IPC and Section 25, 27-54-59 of the Arms Act at Police Station Dinanagar, District Gurdaspur and all consequent proceedings arising therefrom on the basis of compromise.

2. On 12.12.2023, 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.25 dated 09.02.2023, registered for offences punishable under Section 336 of the Indian Penal Code, 1860 and Sections 25, 27-54-59 of Arms Act at Police Station Dinanagar, District Gurdaspur and all subsequent proceedings arising thereto on the basis of compromise. Ld. Counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 22.04.2024.

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

Mr. Pankaj Bains, 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 Illaqa Magistrate/Duty Magistrate on 16.01.2024. On their doing so, the learned Illaqa Magistrate/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 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 02.04.2024 from Judicial Magistrate, 1st Class, Gurdaspur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“I have the honour to submit that vide order dated 12.12.2023 passed by the Hon'ble Punjab and Haryana High Court, Chandigarh, both the parties were directed to get their statements recorded qua the factum of compromise in CRM-M-52352 of 2023.

It is further submitted that on 16.01.2024 petitioner/accused namely Gaurav Dutta and respondent no. 2 Gaurav Mahajan. have appeared before the undersigned and recorded their statements regarding compromise.

Petitioner/Accused namely Gaurav Dutta has suffered statement to the effect that FIR No. 25 dated 09.02.2023 under sections 336 IPC and under sections 25, 27-54-59 of Arms Act was registered at Police Station Dinanagar against him on the statement of Gaurav Mahajan Respondent no. 2. He further deposed that now, with the intervention of respectables, matter has been compromised between them. The compromise has been arrived at without any pressure or

threat. He further deposed that on the basis of compromise, he has preferred quashing petition before the Hon'ble High Court to quash the instant FIR No. 25 dated 09.02.2023 and prayed that instant FIR be quashed.

Respondent no. 2, Gaurav Mahajan, has also suffered separate statement to the effect that FIR No. 25 dated 09.02.2023 under sections 336 IPC and under sections 25, 27-54-59 of Arms Act was registered at Police Station Dinanagar against the petitioner on his statement. He further deposed that petitioner/accused person has compromised matter with him. He further deposed that compromise has been effected between him and petitioner/accused person without any pressure, threat or coercion but with his free consent. He further deposed that he has no objection, if instant FIR No. 25 dated 09.02.2023 is quashed against the petitioner/accused.

It is further submitted that the point-wise report of undersigned in CRM-M-52352 of 2023 is as follows:-

i. As per Statement of Investigating officer there is only one accused in this FIR.

ii. As per statement of Investigating Officer accused person has not been declared as proclaimed offender.

iii. As per statement of parties this court is satisfied that the compromise between the parties is genuine, voluntary and without any coercion or undue influence.

iv. As per statement of Investigating Officer accused/petitioner is not involved in any other FIR.

v. As per statement of Investigating Officer, there is only one victim/complainant in this FIR.”

4. Learned counsel for respondent No.2 admits the fact of parties having compromised and states that she 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 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, 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) and Mohammad Wajid & anr. Vs. State of U.P. & ors, 2023 AIR (SC) 3784.*** 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 wiser 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.

(h) When it comes to quashing of FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings.

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 No25 dated 09.02.2023 registered for offences punishable under Sections 336 of IPC

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and Section 25, 27-54-59 of the Arms Act at Police Station Dinanagar,
District Gurdaspur and all proceedings arising therefrom are hereby
quashed *qua* petitioner.

22.04.2024

spn

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned : Yes

Whether reportable : No