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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M No.52905 of 2023
Date of decision : 12.03.2024

Kanwaljit Singh

...Petitioner

Versus

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Dhawaljeet Dutta, Advocate for the petitioner.

Mr. J.S. Arora, DAG Punjab along with ASI Surinder Kumar.

Mr. Abhishekh Kumar, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioner is seeking quashing
of FIR No.66 dated 28.04.2021 registered under Sections 420 of the IPC,
1860 and Section 24 of the Immigration Act, 1983 at Police Station
Sujanpur, District Pathankot and all consequent proceedings arising
therefrom on the basis of compromise.

2 On 02.11.2023, the following order was passed:

“CRM-44393-2023

Leave, as prayed for, is granted.

Application is allowed.

Main case

Instant petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 seeking quashing of FIR No.66 dated 28.04.2021, registered for offences under Section 420 of the Indian Penal Code, 1860 and Section 24 of the Emigration Act, 1983, at Police Station Sujampur, District Pathankot, Annexure P-1, along with all subsequent

proceedings arising therefrom, on the basis of the compromise dated 06.10.2023, Annexure P-2, arrived at between the parties.

Counsel for the petitioner submits that the dispute has been amicably settled and the amount, allegedly paid to the petitioner, has been refunded.

Notice of motion.

On asking of the Court, Mr. Arun Luthra, DAG, Punjab accepts notice on behalf of State-respondent No.1.

Mr. Abhishek Kumar, Advocate has put in appearance and accepts notice on behalf of respondent No.2. He has filed Vakalatnama, which is taken on record. He has admitted the factum of compromise and supports the prayer made in the petition.

The parties and the Investigating Officer are directed to appear before the Area Magistrate/Trial Court on 12.12.2023 or on any day thereafter as fixed by the Trial Court, for getting their statements recorded with regard to the compromise. The Area Magistrate/Trial Court shall submit a report on or before the next date of hearing specifying the following:-

1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;

2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;

3. the stage of trial/proceedings;

4. if the compromise is genuine, voluntary and out of free will of the parties;

5. whether any other criminal case is pending against the accused.

Report of the Area Magistrate/Trial Court be awaited for 19.01.2024.”

Chief Judicial Magistrate, Pathankot 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 02.11.2023 passed by Hon'ble Punjab & Haryana High Court in CRM-M-52905-2023 (O&M) titled as Kanwaljit Singh Vs. State of Punjab another, the parties and the Investigating Officer were directed to appear before the Area Magistrate/Trial Court on 12.12.2023 or on any day thereafter as fixed by the Trial Court, for getting their statements recorded with regard to the compromise and the Area Magistrate/Trial Court has been directed to send the report before the next date i.e. **19.01.2024**.*

In compliance thereof, complainant Sewa Singh son of Fateh Singh, resident of Baheri Bazurag, Sujanpur, Pathankot appeared and suffered statement that, he has entered into a compromise with accused Kanwaljit Singh son of Puran Singh, resident of Kahnawan, Gurdaspur, Punjab with the intervention of respectable persons of the area. Now, he has no grudge or grievance against Kanwaljit Singh. He has no objection if FIR No.66 dated 28.04.2021, under S.420 IPC and S.24 The Immigration Act lodged with Police Station Sujanpur, Pathankot is quashed. The copy of compromise deed is Ex.C-1, which bears his signatures. His statement is voluntarily and without any pressure and inducement and with free will. This compromise is in the interest of both the parts and future harmony and peace.

Accused Kanwaljit Singh son of Puran Singh, resident of Bhikarihari Harni, Kahnwan, Gurdaspur, Punjab appeared and suffered statement that he has entered into a compromise with complainant Sewa Singh son of Fateh Singh, resident of Baheri Bazurag, Sujanpur, Pathankot with the intervention of respectable persons of the area. Now, he has no grudge or grievance against Sewa Singh. He has no objection if FIR No.66 dated 28.04.2021, under S.420 IPC and S.24 The Immigration Act lodged with Police Station Sajanpur, Pathankot is quashed. The copy of compromise deed is Ex.C-1, which bears his signatures. His statement is voluntarily and without any pressure and inducement and with free will. This compromise is in the interest of both the parties and future harmony and peace.

ASI Ramesh Kumar No. 1262/Ptk, Police Station Sujanpur, Pathankot appeared and suffered statement that he is Investigating Officer in FIR No.66 dated 28.04.2021, under S.420 IPC and S.24 The fimmigration Act, Police Station Sujanpur, Pathankot and accused

Kanwaljit Singh arraigned in the FIR. Accused has not been declared proclaimed offender in this case and there is no other FIR / case against the accused.

*Keeping in view all aspects and statements of complainant Sewa Singh, accused Kanwaljit Singh and investigating Officer ASI Ramesh Kumar No.1262/Ptk, Police Station Sujanpur, Pathankot, this Court is of the considered view that statements of appearing parties are not the result of any pressure or coercion or undue influence and their **compromise is voluntary and without any threat or force.***

Report of this Court as follows:-

(i) As per record, only one accused namely Sewa Singh is arraigned in the FIR and he is appearing in this case and got recorded his statement regarding compromise with complainant Sewa Singh.

As per Investigating Officer ASI Ramesh Kumar No.1262/Ptk, P.S.Sujanpur, accused has not been declared proclaimed offender in this case and there is no other FIR registered against him.

(ii) In this case complainant is Sewa Singh. There is no injured/aggrieved. Complainant Sewa Singh appeared and got recorded his statement regarding compromise with accused Kanwaljit Singh.

(iii) No such proceedings are pending against the accused in this case.

(iv) Compromise effected between the parties appears to be genuine, voluntarily and out of free will.

(v) Except the present case, no other criminal case is pending against accused.

Report along with copies of statements of complainant and accused are submitted, with regards, as directed.”

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 on instructions from ASI Surinder Kumar states 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 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 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.

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.66 dated 28.04.2021 registered under Sections 420 of the IPC, 1860 and Section 24 of the Immigration Act, 1983 at Police Station Sujampur, District Pathankot and all proceedings arising therefrom are hereby quashed *qua* the petitioner.

12.03.2024

spn

(PANKAJ JAIN)

JUDGE

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