

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

277

CRM-M-56367-2022 (O&M)
Date of decision : 01.02.2024

RAJENDER SINGH

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Armaan Gagneja, Advocate
for the petitioner.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Gunjeet Brar, Advocate for respondent Nos.2 & 3.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.214 dated 04.08.2021 registered for the offences punishable under Sections 147, 148, 149, 323, 324, 341, 325, 326, 506, and 120-B IPC at Police Station Kalanwali, District Sirsa (Annexure P-) on the basis of compromise.

2. On 05.12.2022, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioner is facing trial in FIR No.214 dated 04.08.2021, registered for offences punishable under Sections 147/148/149/323/324/341/325/326/506/120-B of the

Indian Penal Code, at Police Station Kalanwali, District Sirsa.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise deed dated 21.10.2022 (Annexure P-2).

Notice of motion for 02.05.2023.

On the asking of the Court, Mr. Ramesh Kumar Ambavta, AAG, Haryana accepts notice on behalf of respondent No.1-State. Mr. Gunjeet Brar, Advocate appears and accepts notice on behalf of respondents No.2 & 3 and admits the fact of there being a compromise between the parties.

In view of the above, the parties, i.e. the petitioner as well as respondents No.2 & 3 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 27.01.2023. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court 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 from Judicial Magistrate 1st Class, Dabwali, Sirsa dated 31.01.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“With reference to the subject as captioned above in compliance of Order dated 05.12.2022 passed by Hon'ble Mr. Justice Pankaj Jain, Judge, High Court of Punjab and Haryana in CRM-M-56367- 2022, petitioner as well as respondents no. 2 and 3 have appeared before the undersigned and got recorded their statements with regard to their compromise. The report of undersigned is as follows:

1. With regard to Point No. (1), it is humbly submitted that as per final report submitted by the police under Section 173 (2) of Cr.P.C., four accused are named therein and it is reported that 5th accused namely Rajender Singh has filed petition before Hon'ble High Court and supplementary challan will be submitted against him after disposal of said petition. Further, as per report dated 30.01.2023 submitted by the investigating officer, there are five accused persons named in the FIR and their names are (1) Surjeet Singh @ Sipu, (2) Naib Singh @ Singh (3) Manpreet Singh @ Kaka, (4) Gurpreet S and (5) Rajender Singh.

2. With regard to Point No. (2), it is humbly submitted that as per report dated 30.01.2023 submitted by the

investigating officer, none of the accused persons has been declared proclaimed offender in this case.

3. With regard to Point No. (3), it is humbly submitted that the statements of accused namely Rajender Singh and complainant Sukhdev Singh and injured namely Harvinder Singh have been recorded. It is most respectfully submitted that as per satisfaction of the undersigned, the compromise as effected between the parties is not the result of any pressure or coercion in any manner. All the parties have suffered their separate statements regarding the compromise voluntarily.

4. With regard to Point No. (4), it is humbly submitted that as per the report dated 30.01.2023 submitted by the investigating officer:

(i). FIR no. 146 dated 25.06.2021, under Sections 380 and 457 of IPC, Police Station: Kalanwali and FIR No. 149 dated 28.06.2021, under Sections 147, 149, 323, 427 and 452 of IPC, Police Station: Kalanwali are registered against accused namely Naib @ Ajaib son of Darshan Singh, resident of village Asir and same are pending trial before the Court;

(ii) FIR No. 142 dated 10.09.2009, under Sections 323, 324, 325 and 341 of IPC, Police Station: Kalanwali and FIR no. 190 dated 22.12.2009, under Sections 323 & 325 of IPC read with Section 34 of IPC were registered against accused namely Rajender Singh son of Shamsher Singh and he has been acquitted vide judgments dated 18.03.2011 & 07.10.2010 respectively by the Court of learned SDJM, Dabwali.

(iii) The remaining accused persons are not involved in any other case.

5. With regard to Point No. (5), it is humbly submitted

that the statement of investigating officer namely SI Chandan Singh has been recorded and as per his statement, there is one complainant namely Sukhdev Singh son of Kehar Singh, resident of village Asir and one injured/ victim namely Harvinder Singh son of Shamsher Singh, resident of village Asir, in the present FIR.”

4. Ld. Counsel appearing for respondent Nos.2 & 3 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 are quashed.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

6. I have heard Ld. 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 Cr.P.C. to quash proceedings recognizing compromise between the 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 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.214 dated 04.08.2021 registered for the offences punishable under Sections 147, 148, 149, 323, 324, 341, 325, 326, 506, and 120-B IPC at Police Station Kalanwali, District Sirsa (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner.

01.02.2024
Deepak Patwal

(PANKAJ JAIN)
JUDGE

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