

2024:PHHC:011518

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

303

CRM-M-53100-2023

Date of Decision: 29.01.2024

Sarabjit Kaur and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SUMEET GOEL

Present:- Mr. Davinder Bir Singh, Advocate
for the petitioners.

Mr. Anup Singh, AAG, Punjab.

Mr. M.K. Bhardwaj, Advocate for
Mr. Amrit Pal Singh Gill, Advocate,
for respondents Nos.2 to 5.

SUMEET GOEL, J. (ORAL)

1. By way of present petition, the petitioner is seeking quashing of FIR No.0301 dated 02.11.2019 under Sections 341, 323, 506, 452, 354, 354-A, 294, 295, 148, 149 of IPC, registered at Police Station, Jamalpur, District Police Commissionerate Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 01.09.2023 (Annexure P-2, which is stated to have been effected between the parties.

2. On 30.10.2023, the following order was passed:

“This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0301 dated 02.11.2019 under Sections 341, 323, 506, 452, 354, 354A, 294, 295, 148, 149 of the Indian Penal Code, 1860

registered at Police Station Jamalpur, District Police Commissionerate, Ludhiana (Annexure P-1), and all other consequential proceedings arising there-from, on the basis of a compromise dated 01.09.2023 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since resolved all their disputes and have entered into a compromise dated 01.09.2023 (Annexure P-2) which has been signed by all the concerned parties. Learned counsel for the petitioners has relied upon the judgement of Hon'ble Supreme Court rendered in "Gian Singh Vs. State of Punjab & Anr." [2012 (10) SCC 303] and the Larger Bench's judgement of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." [2007 (3) RCR (Criminal) 1052].

Notice of motion.

On the asking of the Court, Mr. Adhiraj Singh Thind, AAG Punjab accepts notice on behalf of respondent No.1-State. Mr. A.S. Gill, Advocate accepts notice for respondent Nos.2 to 5. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent Nos.2 to 5 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition. He further submits that respondent Nos.2 to 5 have no objection if the aforesaid FIR is quashed.

List on 29.01.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 04.12.2023, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing:

- 1) *Whether the compromise dated 01.09.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) *Whether any other criminal cases are pending against the parties.*
- 3) *Whether any proclamation proceedings are pending against either of the parties.”*

3. Pursuant to the aforesaid order, report dated 25.01.2024 from Judicial Magistrate Ist Class, Ludhiana, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“With due regard and with reference to the order dated 30.10.2023, passed in the captioned Criminal Miscellaneous, parties were directed to appear before the Illaga Magistrate/Trial Court for recording their statements qua compromise and undersigned was directed to submit report on or before the next date of hearing i.e. 29.01.2024 as regards authenticity and genuineness of compromise after recording statement of both the affected parties.

As per the directions of Hon'ble High Court, statements of complainant Charanjit Kaur wife of Jarnail Singh, victim/aggrieved Amandeep Kaur and all the accused were recorded by the undersigned. Both the parties have echoed the version of having arrived at voluntary compromise with free will without any pressure, coercion or undue influence. Complainant mentioned in her statement that she has no objection if FIR in question is quashed by Hon'ble High Court. The original statements of the parties recorded by the undersigned are being sent herewith.

Accused/applicants and complainant Charanjit Kaur have also mentioned in their statements that the compromise has been arrived at mutually without any undue influence, Coercion or threat.

ASI Madan Lal appeared before the court, and suffered a statement that present FIR was registered at P.S. Jamalpur,

Ludhiana on the basis of complaint filed by complainant Charanjit Kaur against accused. Accordingly, none of accused has been declared as Proclaimed Offender in this case.

It is submitted that upon DDR bearing number 20 dated 06.11.2019 got registered by complainant Karamjit Singh, final report was submitted as a cross version of the incident in FIR number 301 dated 02.11.2019. Said complainant has also suffered his statement that he has arrived at compromise with accused vide compromise deed Ex. CX.

On the basis of statements' made by the parties appearing before undersigned, the compromise on the face of it appears to be genuine, having been arrived at by the parties with free will without any pressure or coercion. There is nothing on the record to doubt the genuineness of the compromise so arrived at between the parties.

With these submissions, the report with regard to the compromise is being submitted accordingly for the kind perusal of the Hon'ble High Court."

4. Learned counsel for respondents No.2 to 5 admits the factum 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 primarily 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.0301 dated 02.11.2019 under Sections 341, 323, 506, 452, 354, 354-A, 294, 295, 148, 149 of IPC, registered at Police Station, Jamalpur, District Police Commissionerate Ludhiana and all consequent proceedings arising therefrom on the basis of compromise/affidavit dated 01.09.2023 (Annexure P-2), is, hereby, quashed qua the petitioner.

(SUMEET GOEL)
JUDGE

January 29, 2024
poonam

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>