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2024:PHHC:017469

CRM-M-53450-2023
Date of decision : 07.02.2024

Versus

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Mr. Baljinder Singh, Advocate for respondent No.2.

By way of present petition, the petitioners are seeking quashing of FIR No.491 dated 20.08.2022, registered for offences punishable under Sections 406/420/120-B IPC, at Police Station Civil Lines, District Hisar on the basis of compromise.

On the asking of the Court, Mr. Gaurav Bansal, DAG,

Haryana accepts notice behalf of respondent No.1-State. on Mr.Baljinder Singh, 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, both the parties are directed to appear before learned Duty Magistrate/Illaqa Magistrate/trial Court on 06.11.2023. On their doing so, the learned Duty Magistrate/Illaqa 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 Duty Magistrate/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 JMIC, Hisar dated 09.11.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“3. Accused Pooja Poonia, Pankaj and Subhash appeared and suffered a joint statement that complainant Samir Dhanda had registered FIR No.491 dated 22.08.2022 under Sections 120-B,

406 and 420, of IPC at Police Station Civil Hisar against them. Now, the matter has been mutually compromised between them and complainant Samir Dhanda. The compromise has been arrived at without any pressure, inducement threat or undue influence. They have not been declared proclaimed persons in the present case and except this case, no other case is pending against them. In the light of compromise, they prayed that aforesaid FIR registered against them may kindly be quashed.

4. Investigating officer i.e. SI Om Parkash appeared and made a statement that the complaint was filed by complainant Samir Chanda. The FIR was registered against accused Pooja Poonia, Pankaj and Subhash on the complaint filed by complainant Samir Dhanda. In the present FIR, besides complainant Samir Dhanda, (1) Pati Ram son of Sawar Ram, resident of Navdeep Colony, Hisar, (2) Krishna wife of Amir Chahnd, resident of Jawahar Nagar, Hisar, (3) Jagdish Chander Chopra son of Amar Singh, resident of Geeta Colony Azad Nagar, Hisar, (4) Col. Sudhir Nohar, resident of 11 Defence Colony, Hisar are the also victims. As per his investigation, no other FIR is pending against the accused above named and they have not been declared proclaimed offenders. Final report under Section 173 (2) Cr.P.C. has not yet been filed in the instant case.

5. In pursuance of the order of Hon'ble High Court dated 19.10.2023, it is humbly submitted that FIR in the instant case was registered against accused Pooja Poonia, Pankaj and Subhash. Final report under Section 173 Cr.P.C. has not yet been filed in the present FIR. As per the statements of accused and the investigating officer, no other case is pending against accused and they not been declared as proclaimed offenders. The compromise arrived at between the parties appears to be voluntary and without any pressure.xxx”

4. Ld. Counsel appearing for respondent 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 petitioners 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 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.491 dated 20.08.2022, registered for offences punishable under Sections 406/420/120-B IPC, at Police Station Civil Lines, District Hisar (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

February 07, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No