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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.53751 of 2023

Date of decision : 06.03.2024.

Simardeep Singh and ors.

Versus

....Petitioners

State of Punjab and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Davinder Kumar, Advocate
for Mr. Pankaj Bali, Advocate
for the petitioners.

Mr. J.S.Arora, DAG Punjab.

Mr. Sikandh Mehta, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1

By way of present petition, the petitioners are seeking quashing of FIR No.247 dated 20.08.2020 registered under Sections 406, 420, 120-B of IPC at Police Station Sirhind, Fatehgarh Sahib and all consequent proceedings arising therefrom on the basis of compromise.

2

On 20.10.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioners seeking quashing of FIR No.247 dated 20.08.2020, registered for offences punishable under Sections 406, 420, 120-B IPC at Police Station Sirhind, Fatehgarh Sahib (Annexure P-1) along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioners contends that the matter already stands compromised vide compromise dated 18.09.2023 (Annexure P-2).

Notice of motion for 13.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Sikandh Mehta, 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 Trial Court/Duty Magistrate on 21.11.2023. On their doing so, the learned Duty Magistrate/Illaqa 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 Trial Court/Duty Magistrate shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3 Pursuant to the one more opportunity granted to the parties to record their statements, report dated 07.02.2024 from Judicial Magistrate 1st Class, Fatehgarh Sahib has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1) As per the statements of complainant Gagan Kumar Bansal and Investigating Officer ASI Mohan Singh, only five persons namely Karnail Singh son of Mela Singh, Ravinder Singh son of Madan Lal, Jagtar Singh son of Mahinder Singh, Balwinder Kaur wife of Jagtar Singh and Simardeep Singh son of Karnail Singh, arrayed as accused in the above noted FIR;

2) As per the statement of complainant; statement of above named accused and statement of Investigating Officer ASI Mohan Singh, no

accused is proclaimed offender in the above noted FIR;

3) As per the statement of both the parties, the compromise is genuine, voluntary and without any coercion or undue influence;

4) As per the statements of accused persons and Investigating Officer ASI Mohan Singh, the accused persons are involved in any other case at P.S Sirhind;

5) As per the statement of Investigating Officer ASI Mohan Singh, in the present case there is only one complainant as well as victim namely Gagan Kumar Bansal.

At this stage, it is pertinent to mention herein that although the complainant has stated in his statement that he has voluntarily compromised the matter with all the accused persons namely Karnail Singh, Simardeep Singh, Ravinder Kumar, Jagtar Singh and Balwinder Kaur, however two accused persons namely Jagtar Singh and Balwinder Kaur are not party to the present petition no.CRM-M-53751-2023 nor they appeared before the court nor their statements qua the compromise have been recorded."

4 Learned counsel 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 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 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.

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 under:-

- (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.247 dated 20.08.2020 registered under Sections 406, 420, 120-B of IPC at Police Station Sirhind, Fatehgarh Sahib and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

06.03.2024
spn

(PANKAJ JAIN)
JUDGE

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