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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-53665-2023 (O&M)

Date of decision: 14.02.2024

Shubham Mahajan

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Navjit Singh, Advocate
for the petitioner.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Daanish Mahajan, Advocate
for respondent No.2.

PANKAJ JAIN, J.(ORAL)

By way of present petition, the petitioner is seeking quashing of cross case in G.D.No.22 dated 28.12.2022 (Annexure P-1) arising out of FIR No.148 dated 22.12.2022 (Annexure P-2) registered under Sections 323, 148, 149 and 325 IPC at Police Station Division No.1 Pathankot, Punjab and all consequent proceedings arising therefrom on the basis of compromise.

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On 30.10.2023, the following order was passed:

“Present is a version and cross-version case. Petition bearing CRM-M-53665-2023 has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of crosscase bearing G.D. No.22 dated 28.12.2022 registered under Sections 323, 148, 149 & 325 IPC arising out of FIR No.148 dated 22.12.2022 registered for offences punishable under Sections 323 and 341 IPC at Police Station Division No.1, Pathankot, Punjab along with all subsequent proceedings arising therefrom. Petition bearing CRM-M-53756-

2023 has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.148 dated 22.12.2022 registered for offences punishable under Sections 323 and 341 IPC at Police Station Division No.1, Pathankot, Punjab along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioner(s) contend that the matter already stands compromised vide compromise dated 29.08.2023. Notice of motion for 14.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Daanish Mahajan, Advocate appears and accepts notice on behalf of respondent No.2 in CRM-M-53665-2023 and Navjit Singh, Advocate appears and accepts notice on behalf of respondent No.2 in CRM-M-53756-2023 and both admit the fact of there being a compromise between the parties.

In view of the above, the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate on 22.11.2023. On their doing so, the learned Duty Magistrate/Illaq 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 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/Illaq Magistrate Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

A photocopy of this order be placed on file of connected case.”

3 Pursuant to the aforesaid order, report dated 02.12.2023 from Additional Chief Judicial Magistrate, Pathankot has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

5. From the statement made by the parties, the report as sought by the Hon'ble High Court is as under:-

(1) As per the statement of Investigating Officer and as per record there is only one person arrayed as accused namely Shubham Mahajan in the present FIR.

(2) As per the statement of Investigating Officer and as per

record accused is not proclaimed offender.

(3) From the statements of the parties, this Court is satisfied that complainant namely Minal Gupta has entered into compromise with the accused Shubham Mahajan is genuine, voluntarily and without any coercion or undue influence.

(4) As per the statement of Investigating Officer and as per record, accused is not involved in any other criminal case.

(5) As per the statement of Investigating Officer, there is only one victim/complainant in the present FIR.”

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 has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-3).

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 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. Cross case in G.D.No.22 dated 28.12.2022 (Annexure P-1) arising out of FIR No.148 dated 22.12.2022 (Annexure P-2) registered under Sections 323, 148, 149 and 325 IPC at Police Station Division No.1 Pathankot, Punjab and all proceedings arising therefrom, are, hereby, quashed qua the petitioner.

(PANKAJ JAIN)
JUDGE

14.02.2024
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<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>