

CRM-M-53361-2023 (O&M)

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2024:PHHC:017790

290-2

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

Date of decision : 07.02.2024

CRM-M-53361-2023 (O&M)

GURMIT KAUR AND ORS.

....Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kanhyia Goyal, Advocate for
Mr. Harpreet S. Sidhu, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Fateh S. Bhullar, Advocate
for respondents No.2 to 4.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of cross case GD No.034 (Annexure P-1) registered under Sections 326/324/34 IPC dated 10.09.2022 regarding FIR No.125 dated 07.08.2022, registered for offences punishable under Sections 325/323/324/452/34 IPC, at Police Station Sadar Patti, District Tarn Taran (Annexure P-1) on the basis of compromise.

2. On 19.10.2023, 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 cross case GD No.034 (Annexure P-1) registered under Sections 326/324/34 IPC dated 10.09.2022

regarding FIR No.125 dated 07.08.2022, registered for offences punishable under Sections 325/323/324/452/34 IPC, at Police Station Sadar Patti, District Tarn Taran.

Learned counsel for the petitioners contends that the matter already stands compromised vide Annexure P-3.

Notice of motion for 07.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr.Fateh Singh Bhullar, Advocate appears and accepts notice on behalf of respondents No.2 to 4 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 SDJM, Patti dated

28.11.2023 has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“From the statements of the parties, I am satisfied that a valid and genuine compromise has been effected between the parties as per their statements recorded in the Court. The aforesaid compromise appears to be genuine one and the same has been entered into voluntarily with free will of the parties without any threat or coercion or undue influence or pressure of any kind. All the accused/petitioners have entered into compromise.

As per statement of ASI Gurdeep Singh No.621/T.T, posted at Police Post Gharyala, Police Station Sadar Patti, District Tarn Taran that in the present GD there are three persons arrayed as accused namely Gurmit Kaur, Gurjinder Singh and Jagjit Singh, residents of village Gharyala, Tehsil Patti, District Tarn Taran, none of the accused/petitioners have been declared proclaimed offender in the present case and other. None of accused person has been involved in any other case and there is only one complainant namely Nasib Kaur.”

4. Ld. Counsel appearing for respondents No.2 to 4 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 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. cross case GD No.034 (Annexure P-1) registered under Sections 326/324/34 IPC dated 10.09.2022

regarding FIR No.125 dated 07.08.2022, registered for offences punishable under Sections 325/323/324/452/34 IPC, at Police Station Sadar Patti, District Tarn Taran (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioners.

February 07, 2024
Dpr

(Pankaj Jain)
Judge

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