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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-54021-2023
Date of decision : 19.03.2024

RAJIV GOYALPetitioner

Versus

STATE OF PUNJAB AND ANOTHER ...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Kashish Aggarwal, Advocate
for the petitioner.

Mr. J.S. Arora, DAG, Punjab.

Mr. Deepak Kohli, Advocate for
Mr. V.K. Singla, Advocate for respondent No.2.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioner is seeking quashing of
FIR No.0027 dated 24.02.2017, registered for offence punishable under
Section 420 of IPC, 1860 at Police Station Jaito, District Faridkot
(Annexure P-1) on the basis of compromise.

2. On 04.12.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction
of this Court under Section 482 Cr.P.C. The petitioner is seeking
quashing of FIR No.0027 dated 24.02.2017, registered for offence
punishable under Section 420 of IPC, 1860 at Police Station Jaito,
District Faridkot and all subsequent proceedings arising thereto on
the basis of compromise.

Learned counsel for the petitioner contends that the matter

already stands compromised vide compromise deed dated 28.09.2023 (Annexure P-2).

Notice of motion for **26.02.2024**.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. J.K. Singla, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on **21.12.2023**.

On their doing so, the learned 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 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, Jaitu dated 22.12.2023 has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“Statement of IO ASI Nachhatar Singh, 233/FDK has also

been recorded to the effect that he is the investigating officer of the present case. As per record, the FIR has been registered against two accused persons namely Rajiv Goyal and Sadarshanpal on the application of complainant Happy Mahajan @ Rakesh Kumar. As per record, there is only one complainant/ victim namely Happy Mahajan. As per record, none of the accused has been declared as proclaimed offender. Accused Rajiv Goyal is not involved in any other case.

As per the statement of the parties, it appears that the compromise is bonafide, voluntary, without any pressure and undue influence, without any fraud and misrepresentation. The same is genuine and valid. Both the parties i.e. accused Rajiv Goyal and complainant Happy Mahajan @ Rakesh Mahajan have given their consent towards the compromise. It has come on record that the present FIR is registered against two accused namely Rajiv Goyal and Sadarshanpal on the complaint of Happy Mahajan. It has also come on record that none of the accused has been declared as proclaimed offender in the present case. It has also come on record that accused Rajiv Goyal is not involved in any other criminal case. It has also come on record that there is only one complainant/ victim namely Happy Mahajan in the present FIR”

4. The aforesaid report reveals that there are two accused persons namely Rajiv Goyal and Sadarshanpal. However, the compromise has only been effected with accused-petitioner Rajiv Goyal.

5. 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 petitioner are

quashed.

6. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise.

7. I have heard Ld. Counsel for the parties and have carefully gone through the records of the case.

8. 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 not affected 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.

9. 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).
- (ii) The offences 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 has entered into compromise on his own volition.

10. Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, namely, Sadarshanpal and it is only Rajiv Goyal who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* Rajiv Goyal the petitioner only.

11. The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '**Lovely Salhotra and another vs. State (NCT of Delhi)**' reported as **(2018) 12 SCC 391**, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12. Consequently, the petition is allowed. FIR No.0027 dated

24.02.2017, registered for offence punishable under Section 420 of IPC, 1860 at Police Station Jaito, District Faridkot (Annexure P-1) and all proceedings arising therefrom, are, hereby, quashed *qua* the petitioner Rajiv Goyal only.

March 19, 2024		(Pankaj Jain)
Dpr		Judge
	Whether speaking/reasoned	: Yes/No
	Whether reportable	: Yes/No