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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-55145-2023 (O&M)
Date of decision: 14.02.2024

Darshan Singh and others **...Petitioners**

Vs.

State of Punjab and another **...Respondents**

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rai Singh Chauhan, Advocate and
Mr. Rohit Sapehiya, Advocate and
Ms. Deepika Chauhan, Advocate
for the petitioners.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Rahul Garg, Advocate for
Mr. Kripal Singh, Advocate for respondent No.2.

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PANKAJ JAIN, J.(ORAL)

1. By way of present petition, the petitioners are seeking quashing of FIR No. 157 dated 13.09.2023 (Annexure P-1) registered under Sections 323, 324, 148 and 149 IPC (Section 326 IPC added later on) at Police Station Sadar Ferozepur, District Ferozepur and all consequent proceedings arising therefrom on the basis of compromise.

2. Learned counsel for the petitioners has placed reliance upon the order dated 13.12.2023 passed in CRM-M-50984-2023 in respect of quashing petition of Gurcharan Singh (father of injured).

3. On 06.11.2023, the following order was passed:

"The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the

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petitioners seeking quashing of FIR No.157 dated 13.09.2023, registered for offences punishable under Sections 324/323/148/149 IPC (Section 326 IPC added later on), at Police Station Sadar Ferozepur, District Ferozepur.

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

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. Kripal Singh, Advocate appears and accepts notice on behalf of respondent No.2 admits 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/Illaqa Magistrate/trial Court on 28.11.2023. 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 Court is also directed to record the statement of the Investigating Officer as to how 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/llaqa Magistrate Court shall be at liberty to call the parties on any other date but not later than a week thereafter."

4. Pursuant to the aforesaid order, report dated 04.12.2023 from Additional Chief Judicial Magistrate, Ferozepur has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

6. The para wise report is submitted as under:-

(i) That FIR No. 157 dated 13.09.2023 was registered under Sections 323/324/148/149 IPC(Section 326 IPC added later on) at police station Sadar, Ferozepur against five persons namely Darshan Singh son of Bhan Singh,

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Malkit Singh son of Darshan Singh, Amarjit Singh son of Darshan Singh, Major Singh son of Joginder Singh and Sarwan Singh son of Gurdev Singh.

(ii) Out of five accused in FIR No.157 dated 13.09.2023 no accused has ever been declared as proclaimed offender.

(iii) The compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.

(iv) No accused person in FIR No.157 dated 13.9.2023 has ever been involved in any other case.

(v) As per the statement of Investigating Officer, there is one complainant-cum-injured namely Swaran Singh son of Gurcharan Singh and there are two more injured namely Surinder Singh son of Darshan Singh and Jasbir Singh son of Jangir Singh in FIR No. 157 dated 13.09.2023. However, statements of injured Surinder Singh son of Darshan Singh and Jasbir Singh son of Jangir Singh have already recorded regarding compromise on 19.10.2023 in CRM-M-50984 of 2023 and copies of the statements are attached."

5. 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 petitioners is quashed.

6. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (Annexure P-3).

7. I have heard learned 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 of the Code to quash proceeding in non-compoundable offences in the cases of ***Gian Singh vs.***

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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.*

9. Thus, keeping in view the aforesaid facts and circumstances,

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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.*

10. Consequently, the petition is allowed. FIR No. 157 dated 13.09.2023 (Annexure P-1) registered under Sections 323, 324, 148 and 149 IPC (Section 326 IPC added later on) at Police Station Sadar Ferozepur, District Ferozepur and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

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Whether reasoned/speaking? *Yes/No*
Whether reportable? *Yes/No*

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