

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

293

2024:PHHC:041634
CRM-M-56739 OF 2023
Date of decision: 20.03.2024

Amarpreet Kaur and Another ..Petitioners

Vs.

State of Punjab and Another ..Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gurminder Singh, Advocate
for the petitioners.

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

Mr. Mudit Gosain, Advocate
for Mr. P.S. Saini, Advocate for respondent No.2.

PANKAJ JAIN, J.(ORAL)

1 By way of present petition, the petitioners are seeking quashing of FIR No.54, dated 30.01.2022, registered for offences punishable under Sections 380, 406, 411 and 34 of the Indian Penal Code, 1860, at Police Station Sohana, District S.A.S. Nagar Mohali and all consequent proceedings arising therefrom on the basis of compromise.

2 On 09.11.2023 the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of FIR No.54 dated 30.01.2022, registered for offences punishable under Sections 380/406/411/34 IPC, at Police Station Sohana, SAS Nagar, Mohali.

Learned counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 20.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. P.S. Saini, 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, both the parties are directed to appear before learned duty Magistrate/Illaq Magistrate/trial Court on 04.12.2023. On their doing so, the learned Duty Magistrate/Illaq 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/Illaq 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 dated 18.03.2024 from Judicial Magistrate, Ist Class, S.A.S. Nagar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“ The complainant Varinder Singh vide his separately recorded statement stated that present FIR No.54 dated 30.01.2022 under Sections 380, 406, 411, 34 IPC, P.S. Sohana District SAS Nagar was registered on his statement against accused Amanpreet Kaur aged about 26 years D/o Surjit Singh Resident of Village Badi Karouram, Nava Gaun, Sub Tehsil Majri, District SAS Nagar and Parminder Singh aged about 35 years Son of Rajpal Singh Resident of H.No. 2105, Pipli Wala Town Manimajra, Panchkula, Haryana. No other person has been arrayed as accused in the present FIR till today. He is the sole complainant/aggrieved person in the present case. He has compromised the matter with the above said accused persons vide compromise deed dated 18.09.2023 and copy of the same is Ex.C1. The said compromise is genuine, voluntary and without any coercion or undue influence. The accused have filed a quashing petition bearing No. CRM-M-56739 of 2023 before the Hon’ble Punjab and Haryana High Court, Chandigarh on the basis of the compromise and he has no objection if the present FIR is quashed against the above said accused.

recorded statement stated that present FIR No.54 dated 30.01.2022 under Sections 380, 406, 411, 34 IPC P.S. Sohana District SAS Nagar was registered on the statement of complainant Varinder Singh against them. No other person has been arrayed as accused in the present FIR till today. Varinder Singh is the sole complainant/aggrieved person in the present case. They have compromised the matter with the above said complainant vide compromise deed dated 18.09.2023 and copy of the same is Ex.C1. The said compromise is genuine, voluntary and without any coercion or undue influence. They are not involved in any other case and also not declared as proclaimed offender in any case. They have filed a quashing petition bearing No.CRM-M-56739 of 2023 before the Hon'ble Punjab and Haryana High Court, Chandigarh on the basis of the compromise and the present FIR may kindly be quashed against them.

3. *Intimation was also given to the investigating office of the present FIR and on this, ASI Raj Kumar No.588/SAS Nagar posted at P.S. Sohana, SAS Nagar, Mohali appeared on 06.03.2024 and vide his separately recorded statement stated that he is investigating officer of the present FIR No.54 dated 30.01.2022 under Sections 380, 406, 411, 34 IPC, P.S. Sohana District SAS Nagar which was registered on the statement of complainant Varinder Singh against accused Amanpreet Kaur aged about 26 years D/o Surjit Singh Resident of Village Badi Karouram, Nava Gaun, Sub Tehsil Majri, District SAS Nagar and Parminder Singh aged about 35 years Son of Rajpal Singh Resident of H.No.2105, Pipli Wala Town Manimajra, Panchkula, Haryana. No other person has been arrayed as accused and there is only one complainant/inured/aggrieved person i.e. Varinder Singh. The accused are not absconding/PO in the present case and also not involved in any other case. The present FIR is pending at the stage of investigation.*

By considering the statements of complainant Varinder Singh, accused Amanpreet Kaur, Parminder Singh and Investigating officer ASI Raj Kumar the requisite report is as under:-

- (i) Total two accused namely Amanpreet Kaur and Parminder Singh mentioned above are arrayed as accused in the present FIR.*
- (ii) The accused are not proclaimed offender.*
- (iii) The compromise is genuine, voluntary and without any coercion or undue influence.*
- (iv) The accused are not involved in any other case.*
- (v) Statement of investigating officer ASI Raj Kumar has been recorded and as per his statement, there is only one complainant/aggrieved person i.e. Varinder Singh mentioned above in the present FIR.”*

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 petitioner are 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.

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. FIR No.54, dated 30.01.2022, registered for offences punishable under Sections 380, 406, 411 and 34 of the Indian Penal Code, 1860, at Police Station Sohana, District S.A.S. Nagar Mohali and all proceedings arising therefrom, are, hereby, quashed *qua* petitioners.

March 20, 2024
Poonam Sharma

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned Yes
Whether Reportable : No