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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-56381-2023 (O&M)

Date of decision: 14.02.2024

Ashutosh Kundra

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajeev Sharma, Advocate
for the petitioners.

Mr. Jasjit Singh, DAG, Punjab.

Mr. Vikrant Duggal, Advocate
for respondent No.2.

PANKAJ JAIN, J.(ORAL)

CRM-6126-2024

This application has been filed under Section 482 Cr.P.C for adding Section 471 IPC and removing Section 427 IPC in the array of offences.

Learned counsel for the petitioners submits that offence punishable under Section 427 IPC has been wrongly mentioned instead of Section 471 IPC in the array of offences.

For the reasons mentioned in the application, same is allowed.

Registry is directed to carry out the necessary correction.

Main case

By way of present petition, the petitioners are seeking quashing of FIR No. 131 dated 21.09.2023 (Annexure P-1) registered

under Sections 408, 465, 467, 468, 471, 120-B IPC at Police Station Sarabha Nagar, Ludhiana and all consequent proceedings arising therefrom on the basis of compromise.

2 On 08.11.2023, 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.131 dated 21.09.2023, registered for offences punishable under Sections 408, 465, 467, 468, 427, 120-B of the Indian Penal Code, 1860 at Police Station Sarabha Nagar, Ludhiana and all subsequent proceedings arising thereto on the basis of compromise.

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

Notice of motion for 14.02.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State.

Mr. Vikrant Duggal, 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, the parties are directed to appear before learned Illaqa Magistrate/Duty Magistrate on 21.11.2023. On their doing so, the learned Illaqa Magistrate/Duty 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 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/Duty Magistrate 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 09.01.2024 from

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

*“5. In view of the statement of complainant/respondent Jaspreet Singh and statement of accused/petitioner Ashutosh Kundra, as detailed herein-above, it emerges on record that the matter has been compromised between them with the intervention of common friends, relatives and respectables out of their free will, voluntarily and without any pressure, threat, undue influence or coercion from any quarter. It also emerges from the statement of ASI Jugraj Singh that there are two accused namely Ashutosh Kundra and **Sandeep Kaur** in this case bearing FIR No.131 dated 31.09.2023 of Police Station Sarabha Nagar, Ludhiana and no other case is registered against them and no accused has been declared proclaimed offender in this case. There is one complainant/victim in this case, who is namely Jaspreet Singh. Statements of the parties and Investigating Officer alongwith documents are attached herewith.”*

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 petitioners is 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 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. FIR No. 131 dated 21.09.2023 (Annexure P-1) registered under Sections 408, 465, 467, 468, 471, 120-B IPC at Police Station Sarabha Nagar, Ludhiana and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(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>