

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

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**CRM-M No.58137 of 2023
Date of decision : 05.03.2024**

Kuldeep Singh and ors.

....Petitioners

Versus

State of Haryana and anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present :- Mr. Vishavjeet Gill, Advocate for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG, Haryana.

Mr. Rahul Boora, Advocate for
Mr. Amit Khatkar, Advocate
for respondent No.2.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioners are seeking quashing of FIR No.106 dated 06.05.2023 registered under Sections 147, 148, 149, 307, 323, 284, 387, 452, 506 of IPC, (Section 307 IPC deleted later on) at Police Station Sadar Tohana, District Fatehabad and all consequent proceedings arising therefrom on the basis of compromise.

2 Reply by way of affidavit of Sanjay Kumar, HPS, Deputy Superintendent of Police, Bhuna, District Fatehabad (Haryana) on behalf of respondent-State filed. The same is taken on record. Copy thereof supplied to the counsel opposite.

3 On 20.11.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.PC by the petitioners seeking quashing of FIR No.106 dated 06.05.2023, registered for offences punishable under Sections 147/148/149/307/323/284/387/452/506 IPC (section 307 IPC deleted later on), at Police Station Sadar Tohana, District Fatehabad.

Learned counsel for the petitioners contends that the matter already stands compromised vide Annexure P-2. He further submits that though the FIR was registered under Section 307 IPC, however, the same stands deleted later on.

Notice of motion for 08.02.2024.

On the asking of the Court, Mr. Ashok Kumar Sehrawat, DAG, Haryana accepts notice on behalf of respondent No.1-State. Mr. Amit Khatkar, 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 21.12.2023. 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.”

4 Pursuant to the aforesaid order, report dated 05.02.2024 from Judicial Magistrate 1st Class, Tohana, has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Vide order dated 20.11.2023 passed by the Hon'ble High Court in the above noted case, the parties were directed to appear before the trial court for recording their statements with regard to the compromise and the undersigned was directed to submit a report on or before the next date of hearing.

Accused Vikram Barala @ Vicky, Gourav, Annu Sharma, Kuldeep Singh, Anup and Raghvir Singh @ Bablu and complainant Vikas have appeared before this court in person and suffered their statements. Being satisfied that the statements were being voluntarily made, statements of both the concerned parties were recorded on oath.

Complainant namely Vikas son of Dilbag Singh has suffered a state- ment to the effect that he has got lodged an FIR against accused Vikram Barala @ Vicky, Gourav, Annu Sharma, Kuldeep Singh, Anup and Raghvir Singh @ Bablu. A compromise has been effected between him and aforesaid accused persons on 03.10.2023 on the basis of which, a petition no. CRM-M no.58137 of 2023 for quashing of aforesaid FIR has been filed in the Hon'ble High Court of Punjab and Haryana. The compromise has been arrived at amicably, without any pressure, undue influence or coercion.

On the other hand, accused Vikram Barala @ Vicky, Gourav, Annu Sharma, Kuldeep Singh, Anup and Raghvir Singh @ Bablu vide their jointly recorded statement have stated that FIR no. 106 dated 06.05.2023 titled as "State Versus Kuldeep Singh and Others", Under Sections 147/148/149/323/325/ 384/387/452/506 of IPC, Police Station Sadar Tohana was registered against them. They further stated that a compromise has been effected with complainant namely Vikas Kumar on 03.10.2023. They further stated that the compromise has been arrived at amicably, without any pressure, undue influence or coercion. They further stated that they have not been declared proclaimed offender by any Court of Law and no other criminal case is pending against them.

It is also humbly submitted that ASI Rajbir Singh no. 172. PS. Sadar Tohana has also appeared in person and suffered a statement

recorded separately that FIR No. 106 dated 06.05.2023 was registered at Police Station Sadar Tohana against accused Vikram Barala Vicky, Gourav, Annu Sharma, Kuldeep Singh, Anup and Raghvir Singh @ Bablu. Later on, during investigation accused namely Madhav Goyal was found innocent. He further stated that besides the above-named accused, there is no other accused in this FIR and none of them have been declared proclaimed offender in any other criminal case.

He further submitted that accused (1) Vikram Barala @ Vicky is also involved in (i) FIR no. 407/30.08.2022 u/s 148,149,394,427,506 IPC PS City Tohana (ii) FIR no. 122 02.07.2021 U/s 148,149,323,427,452,506 IPC PS City Tohana (iii) FIR no. 106 06.05.2023 U/s 147, 148, 149,307,323,384,387,452,506 IPC PS Sadar Tohana (iv) FIR no. 108/07.05.2023 U/s 365,379A,452,506,34 IPC PS Sadar Tohana (v) FIR no. 251/16.07.2017 U/s 148,149,323,427,452 IPC PS Sadar Tohana (vi) FIR no. 443/26.08.2018 U/s 415,323,341,506,34 IPC PS Sadar Ratia and (2) Gourav Vashishth So Virender Vashishth R/o Gupta colony, Tohana is also involved in (1) FIR no. 326/20.06.2022 U/s 139 EC Act PS City Tohana (ii) FIR no. 407/30.08.2022 U/s 148,149,294,427,506 IPC PS City Tohana (iii) FIR no. 108/07.05.2023 U/s 365,379A,452,506,34 IPC PS Sadar Tohana and (3) Anu Sharma S/o Mahavir Parsad is also involved in (1) FIR no. 108/07.05.2023 U/s 365,379A,452,506,34 IPC PS Sadar Tohana and (4) Kuldeep Singh S/o Satbir Singh is also involved in (1) FIR no. 108/07.05.2023 U/s 365,379A,452,506,34 IPC PS Sadar Tohana and (5) Anup S/o Satbir Singh is also involved in (1) FIR no. 108/07.05.2023 U/s 365,379A,452,506,34 IPC PS Sadar Tohana and (6) Raghubir Singh @ Bablu S/o Satpal is also involved in (i) FIR no. 33/20.01.2023 U/s 147,149,323,341,506 IPC PS City Tohana (ii) FIR no. 108/07.05.2023 U/s 365,379A,452,506,34 IPC PS Sadar Tohana (iii) FIR no. 303/05.07.2022 U/s 147,149,323,506 IPC PS City Tohana.

In view of the statements of interested parties, this court is satisfied that the compromise has been arrived between the parties and the said compromise is voluntary and without any pressure and the complainant has no objection, if the present proceedings are dropped against accused Vikram Barala @ Vicky, Gourav, Annu Sharma, Kuldeep Singh, Anup and Raghvir Singh @ Bablu. Parties have appeared in person and suffered their statements in the Court. The compromise is genuine, voluntary and out of free will of the parties. Statement of the interested parties in original are enclosed herewith. ”

5 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 petitioners are quashed

6 Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise (**Annexure P-2**).

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 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.

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) 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.106 dated 06.05.2023 registered under Sections 147, 148, 149, 307, 323, 284, 387, 452, 506 of IPC, (Section 307 IPC deleted later on) at Police Station Sadar

Tohana, District Fatehabad and all proceedings arising therefrom, are,
hereby, quashed *qua* the petitioners.

05.03.2024

spn

(PANKAJ JAIN)

JUDGE

Whether speaking/reasoned

:

Yes

Whether reportable

:

No