

300 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58617-2023
Date of decision : 11.03.2024

USMAN SULATAN @ SUNNY AND OTHERSPetitioners

Versus

STATE OF PUNJAB AND OTHERSRespondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Mohd. Salim, Advocate for the petitioners.

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

Mohd. Zeeshan Khan, Advocate for respondents No.2 to 6.

PANKAJ JAIN, J. (ORAL)

By way of present petition, the petitioners are seeking quashing of FIR No.116 dated 15.10.2021, registered for offences punishable under Sections 379-B/323/34 IPC, at Police Station City-II Malerkotla, District Malerkotla (Annexure P-1) and order dated 11.07.2023 whereby petitioner No.1 has been declared proclaimed person (Annexure P-2) on the basis of compromise.

2. On 21.11.2023, 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.116 dated 15.10.2021, registered for offences punishable under Sections 379-B/323/34 IPC, at Police Station

City-II Malerkotla, District Malerkotla and order dated 11.07.2023 whereby petitioner No.1 has been declared proclaimed person.

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

Notice of motion for **28.02.2024**.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mohd. Zeeshan Khan, Advocate appears and accepts notice on behalf of respondents No.2 to 6 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 22.12.2023. 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 from District & Sessions Judge, Sangrur dated 08.01.2024 has been received, which is taken on

record. As per the report, the trial Court has recorded as follows:-

“1. That Usman Sultan @ Sunny son of Mohd. Sultan, Mohammad Shakeel @ Gheelu son of Abdul Rashid @ Siddi and Suhail @ Raja son of Pal Khan were arrayed as accused in FIR No.116 dated 15.10.2021, under Sections 379-B, 411, 323, 34 IPC, registered at Police Station City-II Malerkotla, on the statement of complainant Deepak son of Mohinder Kumar.

2. That accused Usman Sultan @ Sunny son of Mohd. Sultan has been declared proclaimed offender in this case and on his behalf, statement of his attorney Mohd. Sultan Bhatti has been recorded as he has already appeared on behalf of said accused before our Hon'ble High Court in subject cited CRM-M-58617-2023 and he has specifically stated this fact in his statement recorded in this Court.

3. That compromise appears to be genuine, voluntarily, without any coercion or influence.

4. That as per statement of Investigating Officer/ASI Harjinder Singh, none of the accused person is involved in any other case.

5. That as per statement of Investigating Officer/ASI Harjinder Singh, Deepak son of Mohinder is the complainant of present case, whereas Gabbar Singh son of Jeet Singh, Raj Kumar son of Kulwant Singh, Arun Kumar son of Vicky and Sunil Kumar son of Charna, are also the victims in this case.”

4. Ld. Counsel appearing for respondents No.2 to 6 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.

5. Similarly Ld. State Counsel has stated no objection in case the FIR is quashed based upon the compromise. However, he submits that petitioner No.1 has been declared as proclaimed person. Thus, FIR *qua*

him cannot be allowed to be quashed on the basis of compromise.

6. I have heard Ld. 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 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 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. Though the petitioner No.1 was declared proclaimed person in this case but the fact remains that the parties have amicably settled the matter.

10. Keeping in view the facts and circumstances of the present case and in view of the principles settled by this Court, the present petition is allowed. FIR No.116 dated 15.10.2021 registered for the offence punishable under Sections 379-B/323/34 of the IPC, at Police Station City-II Malerkotla, District Malerkotla as well as order dated 11.07.2023 declaring the petitioner No.1 to be a proclaimed person and all proceedings subsequent thereto, are hereby quashed *qua* the present petitioners.

March 11, 2024		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No