

287(2) IN THE HIGH COURT OF PUNJAB AND
HARYANA
AT CHANDIGARH

CRM-M No.58556 of 2023
Date of decision : 12.03.2024

Gaurav and ors.Petitioners
Versus
State of Haryana and ors.Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Vikram Rana, Advocate
for the petitioners.

Mr. Ramesh Kumar Ambavta, AAG Haryana.

Mr. Ravish Kaushik, Advocate
for respondent Nos.2 and 3.

PANKAJ JAIN, J. (ORAL)

1 By way of present petition, the petitioners are seeking quashing of FIR No. 758 dated 11.07.2019 registered under Sections 148, 149, 323, 325, 452, 502 of IPC, 1860 at Police Station Sadar Karnal and all consequent proceedings arising therefrom on the basis of compromise deed dated 14.11.2023.

2 On 20.11.2023, the following order was passed:

“The prayer in this petition under Section 482 CR.P.C. is for the quashing of the FIR No.758 dated 11.07.2019 (Annexure P-1) under Sections 148, 149, 323, 325, 452, 502 IPC registered at Police Station Sadar Karnal and all other consequential proceedings arising therefrom, on the basis of compromise dated 14.11.2023 (Annexure P-2) entered into between the parties.

Learned counsel for the petitioners submits that in order to live peacefully, parties have entered into Compromise dated

14.11.2023 (Annexure P-2) according to which, both the parties have agreed not to proceed further with the FIR in question.

Notice of motion for 18.04.2024.

Mr. Ravish Kaushik, Addl. A.G. Haryana accepts notice on behalf of respondent No.1-State of Haryana whereas Mr./Ms. Deepan Ragav, Advocate accepts notice on behalf of respondent Nos.2 and 3 and has filed his/her power of attorney. He/She does not dispute the above said compromise, which has been arrived at between the parties, according to which, complainant does not wish to press the allegations alleged in the FIR any further.

Keeping in view the above, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statements on 16.01.2024 with regard to compromise dated 14.11.2023 (Annexure P-2) by moving an appropriate application or by presenting the order. The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused in the FIR;*
- 2. Whether any accused is a 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 FIR or not; and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainant as well as accused are party to the compromise in question.*

The petitioners shall deposit a cost of Rs.25,000/- (collectively) with the District Legal Services Authority concerned on or before the date of recording of their statements and produce the receipt of the same to the Trial Court/Illaq Magistrate.”

3 Pursuant to the aforesaid order, report dated 12.01.2024 from Addl. Chief Judicial Magistrate, Karnal has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“1. The present report is being prepared in pursuance of directions of the Hon’ble Punjab and Haryana High Court passed in

CRM-M-61981-2023 vide order dated 08.12.2023. In compliance of the aforesaid order, on 21.12.2023 **Petitioners No.1 and 2/accused** namely Rahul and Amit gave their statement that they have compromised the matter with respondents No.2 to 5/complainant party namely Gourav, Anand Kumar, Rani alias Sudesh and Pankaj Verma. They placed on record self attested copies of their Aadhar Cards to prove their identities. They were also identified by their counsel Ms. Seema Bhardwaj. Copy of statement of petitioners No.1 and 2/accused is **Annexure A-1**.

2. On 21.12.2023, **respondent No.2 to 4/complainant party** namely Gourav, Anand Kumar and Rani alias Sudesh appeared and on 26.12.2023 **respondent No.5** Pankaj Verma appeared and placed on record self attested copies of their Aadhar Cards to prove their identities. They also gave their statement vide which they stated in writing that they have compromised the matter with petitioner Nos.1 and 2/namely Rahul and Amit without any pressure, coercion and undue influence. They further stated that they have no objection if the FIR in question is quashed. They were identified by their counsel Ms. Mansi. Copy of statement of respondents No.2 to 5/complainant party is **Annexure-II**.

3. Police report was received and statement of Investigating Officer was also recorded qua the required information, copy of which is Annexure-III. On the basis of statements of the parties, police report and statement of Investigating Officer report of the undersigned on the required points is as follows:-

(a) As per statement of IO, there are **six** persons arrayed as accused in this FIR but after investigation, only two accused persons namely Rahul and Amit were found involved in the commission of offence and remaining four persons namely Jaswant, Dhillo Devi, Aman and Aarti were found innocent.

(b) As per statement of IO, **no** accused has been declared Proclaimed Offender.

(c) Undersigned recorded statement of the parties with regard to the compromise and on the basis of the statements of the parties and statement of IO, as referred above, undersigned is of the view that the compromise is genuine, voluntarily and without any coercion or undue influence.

(d) As per statement of IO, accused are not involved in any other case.

(e) Undersigned recorded statement of the IO as to how many victims/complainants are there in the FIR and on the basis of statement of

*the IO, undersigned is of the view that there are **three** victims in the present case and Rani alias Sudesh and Sapna are victims in the present case. ”*

4 Learned counsel for respondents No.2 and 3 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, 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. 758 dated 11.07.2019 registered under Sections 148, 149, 323, 325, 452, 502 of IPC, 1860 at Police Station Sadar Karnal and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

12.03.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned :

Whether reportable :

Yes/No

Yes/No