

283 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-58246-2023
Date of Decision : April 03, 2024

Parwinder Singh and ors

.....Petitioner(s)

Versus

State of Punjab and anr

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Vikasdeep Singh, Advocate
for the petitioner(s).
(Petitioner No.1 stated to have died on 27.12.2023).

Mr. J.S.Arora, DAG, Punjab.
Along with ASI Makhan Singh.

Mr. Mohan Singh Rana, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking
quashing of FIR No.48 dated 23.12.2018 registered under Sections
323/324/326/148/149 of IPC 1860, at Police Station Kabirpur, District
Kapurthala and all consequent proceedings arising therefrom on the basis
of compromise.

2 On 20.11.2023, the following order was passed:

*“The present petition has been moved invoking
jurisdiction of this Court under Section 482 CrPC by the
petitioners seeking quashing of FIR No.48 dated
23.12.2018, registered for offences punishable under*

Sections 323/324/326/148/149 IPC, at Police Station Kabirpur, District Kapurthala.

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

Notice of motion for 14.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Vikas Gupta, 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.”

from Judicial Magistrate 1st Class, Sultanpur Lodhi has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“Kindly refer to the order dated 20-11-2023 and 20.02.2024 passed by the Hon’ble Punjab & Haryana High Court, Chandigarh na case titled as "Parwinder Singh & Ors. Versus State of Punjab & Ors." in CRM-M-58246 of 2023, in aforesaid criminal petition.

The point-wise report is as under:-

(1) There are 05 persons arrayed as accused in this FIR namely:-

(I) Palwinder Singh son of Balwant Singh, 2) Major Singh son of Kulwant Singh. 3) Sukhjinder Singh son of Baldev Singh, 4) Harbhej Singh son of Joginder Singh, 5) Sukhraj Singh son of Major Singh. Out of them accused Palwinder Singh son of Balwant Singh had died on 27.12.2023 and other four accused are petitioner no.2 to 5 in the present petition.

(II) No accused is proclaimed offender/person. Even report us 173 Cr.p.c. is filed and all the accused are facing trial except Palwinder Singh son of Balwant Singh who died on 27.12.2023. Copy of death certificate is attached.

(III) The statement of complainant/victim Gurwinder Singh son of Piara Singh and the accused/petitioners is recorded. Complainant/victim specially recorded that respectables have got the matter settled between them and he does not want to proceed with the trial. He specifically stated that compromise is entered with accused without any undue influence or pressure. He stated that he has no objection if the FIR is quashed. Even petitioners accused suffered statement that matter is amicably settled without any pressure or undue influence. From the statement of the parties, compromise appears to be genuine, voluntary and without any coercion or undue influence.

IV) One other FIR bearing no.81 dated 25.12.2021, U/s 61-1-14 Excise Act. PS. Kabirpur is registered against accused/petitioner no.5 Harbhej Singh son of Joginder Singh. Against other accused/petitioners no.1 to 4. no other FIR is pending.

V) Statement of SHO Rajinder Singh no.1/Asr. PS. Kabirpur, District Kapurthala is recorded and as per his statement there is only one Victim/complainant namely Gurwinder Singh son of Piara Singh,

Said Gurvinder Singh son of Piara Singh is respondent no.2 in the present petition.

Compromise between parties appears to be genuine and without any undue influence or pressure. Certified copies of statements of both the parties & SHO Rajinder Singh recorded in this Court are being sent herewith. The explanation of the undersigned as directed by the Hon'ble High Court is also sent separately for kind perusal. The report is accordingly submitted before the Hon'ble High Court for kind perusal."

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 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.48 dated 23.12.2018 registered under Sections 323/324/326/148/149 of IPC, 1860, at Police Station Kabirpur, District Kapurthala and all proceedings arising therefrom are hereby quashed *qua* the petitioners.

(PANKAJ JAIN)
JUDGE

03.04.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No