

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

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CRM-M-60406-2023

Date of decision : 31.01.2024

Narinder Singh and others**..... Petitioners****versus****State of Punjab and others****..... Respondents****CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN**

Present: Mr. Ashdeep Singh, Advocate for
Mr. Mikhail Kad, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab.

Mr. Neeraj Yadav, Advocate
for respondents No.2 and 3.

PANKAJ JAIN, J. (Oral)

1. On oral request made by counsel for the petitioners, Section 254 of Arms Act mentioned in the head note and prayer clause be corrected as Section 54 of Arms Act.

2. Registry is directed to carry out necessary changes in the head note and prayer clause accordingly.

3. By way of present petition, the petitioners are seeking quashing of Cross Case (Rapat No.26) dated 21.12.2009, registered for the offences punishable under Sections 326, 336, 506, 148 and 149 of IPC, 1860 and Sections 25, 27, 54 and 59 of Arms Act in FIR No.189 dated 20.12.2009, registered for the offences punishable under Sections 326, 324, 148 and 149 of IPC at Police Station Majitha, District Amritsar (Rural) on the basis of compromise deed dated 03.11.2023 (Annexure P-2).

4. On 02.12.2023, 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 cross case (Rapat No.26) dated 21.12.2009, registered for offences punishable under Sections 326, 336, 506, 148, 149 of the Indian Penal Code, 1860 and under Sections 25, 27, 254, 59 of the Arms Act, 1959 in FIR No.0189 dated 20.12.2009 under Sections 326, 324, 148, 149 of the IPC, at Police Station Majitha, District Amritsar and all subsequent proceedings arising thereto on the basis of compromise.

Ld. Counsel for the petitioner contends that the matter already stands compromised vide Annexure P-2.

Notice of motion for 31.01.2024.

Mr. Jaswinder S. Arora, DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. Nitin Mittoo, Advocate appears for Mr. Neeraj Yadav, Advocate and files power of attorney on behalf of respondents No.2 and 3 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 Trial Court/Duty Magistrate within 15 days from today i.e. on or before 16.12.2023. On their doing so, the learned Trial Court/ 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?

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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 Trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

5. Pursuant to the aforesaid order, report dated 24.01.2024 from JMIC, Amritsar has been received, which is taken on record. As per the report, the trial Court has recorded as follows:-

“xx xx xx

I am satisfied that compromise is genuine and has effected between the parties voluntarily, without any coercion or influence. It is further submitted that as per the statement of investigating officer ASI Harjinder Singh No.1689/ASR(Rural), presently posted at Police Station Majitha, Amritsar, he is the investigating officer of present case. There are seven accused involved in the present case namely Narinder Singh, Bhupinder Singh, Kulwinder Singh, Balkaran Singh alias Balraj Singh, Bakshees Singh alias Bakshish Singh, Gurwinder Singh alias Babbu and Swaran Singh. The accused have never been declared as proclaimed offender in the present case. The

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accused are not involved in any other case, except the present case. There is only one complainant in the present case namely Malkit Singh and one victim namely Rattan Singh.”

6. Mr. Neeraj Yadav, Advocate appears for respondents No.2 & 3 and admits the fact of parties having compromised and states that he has no objection in case the Cross Case/FIR and all proceedings subsequent thereto against the petitioners are quashed.

7. Learned State counsel has stated no objection in case the Cross case/FIR is quashed based upon the compromise.

8. I have heard learned counsel for the parties and have carefully gone through the records of the case.

9. 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 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.

10. 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 Cross case/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.*

(vi) *Though the petitioners already stand convicted yet in view of law laid down by the Apex Court in the case of **Ram Gopal and another vs. State of Madhya Pradesh** (supra), this Court finds it to be a fit case to exercise jurisdiction under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating therefrom including the order of conviction.*

11. Consequently, the petition is allowed. Cross Case (Rapat No.26) dated 21.12.2009, registered for the offences punishable under Sections 326, 336, 506, 148 and 149 of IPC, 1860 and Sections 25, 27, 54 and 59 of Arms Act in FIR No.189 dated 20.12.2009, registered for the offences punishable under Sections 326, 324, 148 and 149 of IPC at Police Station Majitha, District Amritsar (Rural) and all proceedings arising therefrom, are, hereby, quashed qua the petitioners.

(PANKAJ JAIN)
JUDGE

31.01.2024
Dinesh

Whether speaking/reasoned	Yes
Whether Reportable :	No