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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH****CRM-M No.60009 of 2023
Date of decision : 06.03.2024**

Parkash Thakur @ Parkash Singh

....Petitioner

Versus

State of Punjab and anr.

.....Respondent(s)**CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN**
*******Present :- Mr. Jasmeet Singh Saini, Advocate
for the petitioner.

Mr. J.S.Arora, DAG Punjab.

Mr. Shubham Aneja, Advocate for
Mr. Yadwinder Singh, Advocate
for respondent No.2.*********PANKAJ JAIN, J. (ORAL)**

1 By way of present petition, the petitioner is seeking quashing of FIR No.242 dated 23.08.2022, registered under Sections 341, 323, 325, 148 and 149 of IPC, at Police Station City Kharar, Tehsil and Distt. SAS Nagar, Mohali and all consequent proceedings arising therefrom on the basis of compromise.

2 On 30.11.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.242 dated 23.08.2022, registered for offences punishable under Sections 341, 323, 325, 148, 149 IPC at P.S. City Kharar, Tehsil and District SAS Nagar, Mohali along with all subsequent proceedings arising therefrom.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise dated 06.11.2023

(Annexure P-2).

Notice of motion for 06.02.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. D.A.G., Punjab accepts notice on behalf of respondent No.1-State. Mr. Yadwinder Singh, 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, the parties are directed to appear before learned Duty Magistrate/Illaq Magistrate/Trial Court on 14.12.2023. 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 Court is also directed to record the statement of the Investigating Officer as how to victims/complainants are there in the FIR. many*

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 dated 23.02.2024 from Judicial Magistrate 1st Class, Kharar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“In reference to the docket in CRM-M-60009-2023 received by undersigned it is humbly submitted that through order dated 30.11.2023 passed by Hon'ble High Court, this court was directed to record the

statement of the parties regarding genuineness of the compromise on dated 14.12.2023 FIR No.242 dated 23.08.2022 under Sections 341/323/325/148/149 of IPC. P.S. City Kharar and to submit report regarding genuineness of the compromise on or before 06.02.2024.

In compliance of order of your goodself the undersigned has submitted the report vide letter bearing No.139 dated 31.01.2024 whereby it is got mentioned by undersigned that the only one accused namely Parkash Thakur @ Parkash Singh is involved in the present case, which is a result of inadvertence. The mistake has accrued on account of rush of work on the said day on account of heavy cause list of cases of more than 111. The undersigned is apologetic for the mistake and mistake is highly regretted. The undersigned ensures your goodself that the undersigned will take care in future.

In view of the instruction imparted through order dated 06.02 2024 a correct report is hereby submitted again.

On dated 14.12.2023 complainant namely Sanjay Kumar Shah son of Ishwer Singh, Resident village Mariwa Karan, Nechwajalapur, District Gopalganj, Bihar, presently residing at Paradise Apartment Sunny Enclave Sector-125, S.A.S. Nagar (Mohali) as well as accused namely Parkash Thakur @Parkash Singh son of Inder Thakur, resident of Flat No.654. Punjab and Sind Bank, Sector-49, Chandigarh appeared and their statements were recorded as to compromise.

Complainant namely Sanjay Kumar Shah suffered statement that with the intervention of the respectable the matter has been amicably settled between him and accused Parkash Thakur @ Parkash Singh without any coercion or undue influence out of his free will. Further stated that he has no objection if the FIR is quashed against accused namely Parkash Thakur @ Parkash Singh as he does not want to proceed further against the accused Parkash Thakur @ Parkash Singh and has no objection if accused Parkash Thakur @ Parkash Singh is acquitted in the present case. The said compromise has been effected between him and accused Parkash Thakur @ Parkash Singh with their own free will and consent without any undue influence and pressure and same is true and correct.

Accused Parkash Thakur @ Parkash Singh suffered statement that with the intervention of the respectable the matter has been amicably settled between him and complainant Sanjay Kumar Shah. The said compromise has been effected between him and complainant with their own free will and consent without any undue influence and pressure and

same is true and correct. Accused has produced photocopy of compromise deed dated 06 11.2023 as Mark A.

As per statements made by the parties, the compromise was entered into without any undue influence or without any pressure. In my opinion, compromise appears to have been made voluntarily and is genuine.

It is hence submitted that:-

1. As per FIR, there are approximately seven accused-persons. Accused Parkash Thakur @ Parkash Singh and Harpreet Singh were nominated by name, whereas, other persons were arrayed as 4-5 unknown persons in the present case.

It is further submitted that as per the information provided by Investigating Officer ASI Sh. Rajinder Singh No.530/SAS Nagar Nagar (Mohali):-

1. As per FIR there are approximately seven accused-persons. Accused Parkash Thakur @ Parkash Singh, Harpreet Singh and 4-5 unknown persons are arrayed as accused in the present case.

2. Accused Parkash Thakur @ Parkash Singh is not declared as Proclaimed offender in the present case but earlier he has been declared proclaimed person in FIR No.77 dated 11.09.2013 under Section 406, 420, 120-B of IPC registered at P.S. Mullanpur Garibdass and thereafter vide order dated 09.09.2015 in CRM-M-41270 of 2019 passed by the Hon'ble High Court has set aside the order dated 25.9.2019 of proclaimed person.

3. Accused Parkash Thakur @ Parkash Singh is not involved in any other case and remaining accused including Harpreet Singh is not traceable.

4. The statement of Investigating Officer is recorded and as per his statement there is only one victim/complainant namely Sanjay Kumar Shah in the present FIR.

It is further submitted that the compromise appears to be genuine, voluntary and without any coercion or undue influence.

The statement of complainant Sanjay Kumar Shah as well as accused Parkash Thakur @ Parkash Singh along with copy of compromise Mark A has already been sent for your kind perusal.”

4 The aforesaid report reveals that there are approximately seven accused persons. Accused Prakash Thakur @ Parkash Singh, Harpreet Singh and 4-5 unknown persons are arrayed as accused in the present case.

5 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 petitioner is 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 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 wide and 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 Since the parties are *ad idem* that the compromise/settlement has to be read strictly *inter se* between the parties to the present petition and the complainant wants to pursue prosecution of rest of accused, and it is

only accused-petitioner who has approached this Court by way of present petition, the present petition is being entertained and allowed *qua* him only.

11 The question raised by State counsel as to whether the FIR can be quashed in part or not already stands answered by Apex Court in '***Lovely Salhotra and another vs. State (NCT of Delhi)***' reported as ***(2018) 12 SCC 391***, wherein it was observed as under:-

“xx xx xx

We have taken into account the facts of the matter in question as it appears to us that no cognizable offence is made out against the appellants – herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants - herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No.2 – herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos. 2, 3, 4 and 6 prima facie.”

12 Consequently, the petition is allowed. FIR No.242 dated 23.08.2022, registered under Sections 341, 323, 325, 148 and 149 of IPC, at Police Station City Kharar, Tehsil and Distt. SAS Nagar, Mohali and all proceedings arising therefrom are hereby partially quashed *qua* the petitioner.

06.03.2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No