

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

CRM-M-62037-2023
Date of Decision : 22-04-2024

Harbans singh @ bhola and others
.....Petitioner(s)

Versus

State of Punjab and another
.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Fariad Singh Virk, Advocate
 for the petitioner(s).

 Mr. J. S. Arora, DAG Punjab.

 Mr. Manna Singh, Advocate
 For respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioners are seeking quashing of FIR No.40 dated 02.03.2016 registered for offences punishable under Sections 447, 511, 420, 467, 468, 471 and 120-B of IPC, 1860 at Police Station Civil Lines, District Patiala and all consequent proceedings arising therefrom on the basis of compromise dated 24.11.2023 (Annexure P-2).

2 On 12.12.2023, 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 FIR No.40 dated 02.03.2016, registered for offences punishable under Sections 447, 511, 420, 467, 468, 471 & 120-B of the Indian Penal Code, 1860 at Police Station Civil Lines, District Patiala and all subsequent proceedings arising thereto on the basis of compromise.

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

Notice of motion for 22.04.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab appears and accepts notice on behalf of respondent No.1-State.

Mr. G.S. Salana 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 Trial Court/Duty Magistrate on 16.01.2024. 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?*
- 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/Duty Magistrate 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 05.02.2024 from Judicial Magistrate, 1st Class, Patiala has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“It is respectfully submitted that in compliance to the directions given by the Hon'ble Punjab & Haryana High Court vide order dated 12.12.2023 passed in CRM-M-62037-2023 for recording the statements of the parties with regard to the compromise, both the parties appeared for recording their statements regarding compromise

on 19.01.2024 and the complainant Surjit Singh and accused Harbans Singh @ Bhola, Mukesh Kumar @ Mukesh Thakur and Ravinder Singh remained present in the court. The statements of complainant Surjit Singh and accused persons namely Harbans Singh @ Bhola, Mukesh Kumar (@ Mukesh Thakur and Ravinder Singh were recorded separately with regard to compromise.

Complainant Surjit Singh has suffered statement that he has entered into a compromise in the instant criminal case with the accused persons namely Harbans Singh @ Bhola son of Karnail Singh, Mukesh Kumar @ Mukesh Thakur son of Vijay Kumar and Ravinder Singh son of Ajaib Singh, all residents of Patiala in FIR No. 40 dated 02.03.2016 under sections 447, 511, 420, 467, 468, 471 and 120-B of IPC, PS Civil Lines, District Patiala and he has no any grudge with the accused and he has no objection if the said FIR may kindly be quashed. He further stated that he has compromised with all the accused persons which is genuine, voluntary and without any coercion or undue influence.

Accused Harbans Singh @ Bhola, Mukesh Kumar Mukesh Thakur and Ravinder Singh have suffered statements that they have entered into a compromise in the instant criminal case with the complainant Surjit Singh son of Bachan Singh, resident of village Satoura, Tehsil Pehwa, District Kurukshetra, Haryana in FIR No. 40 dated 02.03.2016 under sections 447, 511, 420, 467, 468, 471 and 120-B of IPC, PS Civil Lines, District Patiala. They are not Proclaimed offenders in any case and they all are not involved in any criminal case till today. The compromise which was effected with us is genuine and without any coercion or undue influence.

Both parties were duly identified by their counsels present in the Court.

Investigating officer retired SI Major Gir son of late Sh. Chajju Gir, resident of House No. 31, Street No. 8-A, Anand Nagar-B, Patiala was also recorded separately, wherein he stated that he was the Investigating Officer of the present FIR No. 40 dated 02.03.2016, PS Civil Line, Patiala and there are three persons arrayed as accused that are Harbans Singh @ Bhola, Mukesh Kumar @ Mukesh Thakur and Ravinder Singh and there was only one complainant/victim in the present case.

Since the aforesaid Investigating Officer is retired now, the statement of ASI Suresh Kumar, No. 2707 posted at Police Station Civil Line, Patiala also recorded wherein he stated that he has knowledge about the facts of the case and as per record no accused among all three persons was declared as Proclaimed Offender and no other FIR is pending against all the three accused persons.

After going through the statements given by the parties, Investigating officer retired SI Major Gir and ASI Suresh Kumar, the report of Illaqa Magistrate is hereby submitted on the following information as directed by the Hon'ble Punjab & Haryana High Court.

1. Number of persons arrayed as accused in the FIR?

As per the statement of the Investigating Officer, SI Major Gir, only three accused namely Harbans Singh @ Bhola, Mukesh Kumar @

Mukesh Thakur and Ravinder Singh arrayed as accused in are FIR No.40 dated 02.03.2016, PS Civil Lines. Patiala.

2. Whether any accused is proclaimed offender ?

As per the statement suffered by ASI, Suresh Kumar, none of accused persons is proclaimed offender nor ever declared proclaimed offender by the court.

3. Whether the compromise is genuine, voluntary and without any coercion and undue influence;

In view of statement suffered by complainant Surjit Singh and accused persons namely Harbans Singh @ Bhola, Mukesh Kumar @ Mukesh Thakur and Ravinder Singh, it is hereby submitted that the compromise arrived between both the complainant and accused persons is genuine, voluntarily and without any coercion and undue influence.

4. Whether the accused persons are involved in any other case or not?

In view of statement of ASI Suresh Kumar, no other FIR is pending against all three accused persons.

5. The Trial Court is also directed to record the statement of Investigating Officer, as to how may victims/complainants are there in the FIR?

In view of statement suffered by Investigating Officer SI Major Gir, there is only one complainant/victim namely Surjit Singh in the present FIR.”

4 Learned counsel for respondent No.2 admits the fact of parties having compromised and states that she 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, 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) and Mohammad Wajid & anr. Vs. State of U.P. & ors, 2023 AIR (SC) 3784.*** 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.

(h) When it comes to quashing of FIR or criminal proceedings, the criminal antecedents of the accused cannot be the sole consideration to decline to quash the criminal proceedings.

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 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.40 dated 02.03.2016 registered for offences punishable under Sections 447, 511, 420, 467, 468, 471 and 120-B of IPC, 1860 at Police Station Civil Lines,

District Patiala and all proceedings arising therefrom are hereby quashed
qua petitioners.

22-04-2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No