

286 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-63525-2023
Date of Decision : April 03, 2024

Hardeep Kumar

.....Petitioner

Versus

State of Punjab and anr

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Ms. Ritu Punj, Advocate
for the petitioner.

Mr. J.S.Arora, DAG, Punjab.

Mr. Kuldeep, Advocate
for Mr. Varun Singla, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioner is seeking quashing of FIR No.0055 dated 21.07.2023 registered under Section 420 of IPC, 1860 at Police Station Bhadaur, District Barnala and all consequent proceedings arising therefrom on the basis of compromise.

2 On 16.12.2023, the following order was passed:

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. The petitioner is seeking quashing of FIR No.0055 dated 21.07.2023, registered for offence punishable under Section 420 of IPC at Police Station Bhadaur, District Barnala and all subsequent proceedings arising thereto on the basis of compromise.

Learned counsel for the petitioner contends that the matter already stands compromised vide compromise dated 08.12.2023 (Annexure P-2).

Notice of motion for 03.04.2024.

Mr. Tarun Aggarwal, Sr. DAG, Punjab, who is present in Court accepts notice on behalf of respondent No.1-State.

Mr. Varun Singla, Advocate appears on behalf of respondent No.2 and admits the fact of there being compromise between the parties.

In view of the above, the parties are directed to appear before learned Illaqa Magistrate/trial Court on 18.01.2024.

On their doing so, the learned Illaqa 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 Illaqa 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 12.03.2024 from Judicial Magistrate 1st Class, Barnala has been received, which is taken on record. As per the report, the Trial Court has recorded as

follows:-

"I have the honour to submit that Hon'ble High Court, vide order 16.12.2023 passed in 118 CRM-M-63525-2023, has directed Ilaqa Magistrate/Trial Court to record the statements of the parties with regard to compromise and also directed Haqa Magistrate/Trial Court to report regarding the number of persons arrayed as accused in the FIR and as to whether any accused is declared as proclaimed offender and as to whether the compromise genuine, voluntarily and without any coercion or undue influence and as to whether the accused persons are involved in any other case or not and the trial Court is also directed to record the statement of Investigating Officer as to how many victims/complainants are there in the FIR.

In compliance, statements of petitioner/accused namely Hardeep Kumar as well as Charanjit Singh (respondent No.2), on the identification of their respective counsels, have been recorded, whereby both the parties have admitted the effectiveness of compromise among themselves. They further stated that the compromise between them is genuine, voluntarily and without any coercion or undue influence and same is result of free will of parties. They further stated that there is no any other accused other than the petitioner namely Hardeep Kumar in this case and he has not been declared proclaimed offender. They further stated that there is only one victim/complainant namely Charanjit Singh (respondent No.2) in the present FIR. They further stated that they have no objection if the FIR of the present case be quashed.

Statement of ASI Kuldeep Singh, who is Investigating Officer of this case, has also been recorded. During his statement, ASI Kuldeep Singh has stated that he is investigating officer of this case and the present FIR has been registered against only one accused namely accused/petitioner Hardeep Kumar son of Kaur Chand and there is no any other accused in the present FIR and accused/petitioner Hardeep Kumar is not declared proclaimed offender. He further stated that petitioner/accused Hardeep Kumar is also involved in FIR No.9 dated 21.02.2023 under Section 306 IPC Police Station, Bhadaur and in FIR No.59 dated 04.08.2023 under Section 409 IPC Police Station, Bhadaur. He further stated that in the present case, there is only one victim/complainant namely Charanjit Singh son of Mahinder Singh (respondent No.2) and in the present FIR there is no other victim/complainant.

Ahlmad has also made report that as per record, present FIR has been registered against only one accused namely

accused/petitioner Hardeep Kumar son of Kaur Chand and there is no any other accused in the present FIR and accused/petitioner has not been declared as proclaimed offender and petitioner/accused Hardeep Kumar is also involved in FIR No.9 dated 21.02.2023 under Section 306 IPC Police Station, Bhadaur and in FIR No.59 dated 04.08.2023 under Section 409 IPC Police Station, Bhadaur and in the present case, there is only only victim/complainant namely Charanjit Singh son of Mahinder Singh (respondent No.2) and in the present FIR there is no other victim/complainant.

As desired, the report is as follows:-

1 As per above statements and report, in the present FIR, one person i.e petitioner Hardeep Kumar has been arrayed as accused.

2 As per above statements and report, accused Hardeep Kumar has not been declared proclaimed offender.

3 As per above statements of the parties, it appears that parties to the present petition have voluntarily entered into compromise and the compromise between the parties is genuine and without any coercion or undue influence.

4 As per statement of Investigating Officer accused Hardeep Kumar is also involved in FIR No.9 dated 21.02.2023 under Section 306 IPC Police Station, Bhadaur and in FIR No.59 dated 04.08.2023 under Section 409 IPC Police Station, Bhadaur.

5 As per the statement of Investigating Officer, statement of parties and as per office report, in the present case, there is only one victim/complainant and the name of the victim/complainant is Charanjit Singh (respondent No.2) and in the present FIR, there is no other victim/complainant.

Hence, report along-with statements of the parties, is submitted, please.”

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 petitioner is 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.0055 dated 21.07.2023 registered under Section 420 of IPC, 1860 at Police Station Bhadaur, District Barnala and all proceedings arising therefrom are hereby quashed *qua* the petitioner.

(PANKAJ JAIN)
JUDGE

03.04.2024
spn

Whether speaking/reasoned	Yes
Whether Reportable :	No

