

CRM-M-63678-2023

Tarsem Singh

Versus

State of Punjab and anr

.....Respondent(s)

Present:- Mr. Gopal Singh Nahel, Advocate
for the petitioner.

Mr. J.S. Arora, DAG Punjab
along with ASI Bhola Singh.

Mr. Sahilpreet Singh, Advocate
for Mr. Randeep Singh Gill, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1. By way of present petition, the petitioner is seeking quashing of FIR No.4 dated 25.05.2018, registered for offences punishable under Sections 419/420/465/467/468/471 IPC, at Police Station City-1 Sangrur, District Sangrur and all consequent proceedings arising therefrom on the basis of compromise.

2. On 18.12.2023, the following order was passed :-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.4 dated 25.05.2018, registered for offences punishable under Sections 419/420/465/467/468/471 IPC, at Police Station City-1 Sangrur, District Sangrur.

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

Notice of motion for 23.04.2024.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Randeep Singh Gill, Advocate appears and filed his Power of Attorney, 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/Illaqa Magistrate/trial Court on 18.01.2024. On their doing so, the learned Duty Magistrate/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 Duty Magistrate/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 20.01.2024 from Judicial Magistrate 1st Class, Sangrur has been received, which is

taken on record. As per the report, the Trial Court has recorded as follows:-

“Kindly refer to the order of Hon'ble High Court dated 18.12.2023 in CRM-M No.63678-2023, received in this Court on 02.01.2024 through Ld. District and Sessions Judge, Sangrur vide office endorsement No. 4916/RD dated 22.12.2023, on the subject cited above.

1. In compliance with order dated 18.12.2023, passed by Hon'ble the Punjab and Haryana High Court in CRM-M No. 63678-2023 titled as Tarsem Singh Vs State of Punjab and another, the report is submitted as under:

FIR No. 04 dated 25.05.2018, Under Sections 419, 420, 465, 467, 468, 471 of IPC, PS City-1, Sangrur was registered on the statement of complainant Lachman Singh son of Maghar Singh r/ Dhandoli Kalan, Distt. Sangrur.

The statement of Lachman Singh son of Maghar Singh r/o Dhandoli Kalan, Distt. Sangrur (Complainant/Victim) was recorded and he stated that he had entered into compromise with Tarsem Singh. compromise The between complainant and accused is genuine, voluntarily and without any coercion or undue influence. He has suffered the statement in the Court out of his free will, with his own consent and without any pressure or coercion.

Statements of accused person namely Tarsem Singh was recorded and he stated that he has entered into the compromise with the complainant Lachman Singh. He is only accused in the above noted FIR. He is not declared proclaimed offender. The compromise between complainant and accused is genuine, voluntarily and without any coercion or undue influence. One FIR was registered against him i.e. FIR No. 77 dated 10.03.2016 under Section 420, 419, 475, 476, 482 IPC and Section 21 of Private Security Agency (regular) Act, 2005 and 207 Motor Vehicle Act, P.S City Sangrur and he has been acquitted in the FIR on dated 13.12.2020 by Sh. Ajit Pal Singh, Chief Judicial Magistrate, Sangur and another FIR No. 82 dated 08.06.2016 under Section 323, 341, 506, 34 IPC, P.S Samana and cancellation was moved in the same by the Police authorities.

Statement of Investigating Officer ASI Jagar Singh, was also recorded and he stated that the present FIR was registered after detailed inquiry conducted on application No. 12231/P dated 09.11.2017 moved by Lachman Singh son of Maghar Singh r/o Village Dhandoli Kalan. He was the 10 of the present FIR. There was only one accused namely Tarsem Singh arrayed in the present case. The accused has never been declared as Proclaimed Offender. There were two another FIRs registered against the accused as follows:-

1. FIR No. 77 dated 10.03.2016 under Section 419, 420, 475, 476, 482 IPC, P.S City, Sangrur

2. FIR No. 82 dated 08.06.2016 under Section 323, 341, 506, 34 IPC, P.S Samana and cancellation was moved in the same.

There was only one complainant/victim namely Lachman Singh in the present FIR.

2. On the basis of the above said statements, the report is submitted as under please:-

1. Number of accused arrayed?

There was only one person arrayed as accused namely Tarsem Singh son of Labh Singh r/o Gurutegh Bahadur Nagar, ward No. 1, Kartarpura, Distt. Sangrur in FIR.

2. Whether any accused is a Proclaimed Offender?

The accused person has not been declared as Proclaimed Offender in this case as per statement of Investigating Officer.

3. Whether the compromise is genuine, voluntarily and without any coercion or undue influence?

Yes, the compromise is genuine and has been entered into by the parties voluntarily, without any pressure or coercion of any sort

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

There were two other FIRs registered against the accused as follows:

1. FIR No. 77 dated 10.03.2016 under Section 419, 420, 475, 476, 482 IPC, P.S City, Sangrur

2. *FIR No. 82 dated 08.06.2016 under Section 323, 341, 506, 34 IPC, P.S Samana and cancellation was moved in the same.*

The challan has been presented in the present case and the case is pending for prosecution evidence. The accused person has not been declared Proclaimed Offender in this case.

The quashing petition in this case is pending in Hon'ble Punjab and Haryana High Court titled as Tarsem Singh vs State of Punjab and Anr. (63678-2023) pending for 23.04.2024.

3. *The statements of the parties in original and copies of their identity are submitted along-with this report.”*

4. Learned counsel for respondent 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, 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 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.4 dated 25.05.2018, registered for offences punishable under Sections 419/420/465/467/468/471 IPC, at Police Station City-1 Sangrur, District Sangrur and all proceedings arising therefrom are hereby quashed *qua* petitioner.

23-04-2024
spn

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : No