

290 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-64770-2023

Date of Decision : April 03, 2024

Parveen Gautam

.....Petitioner

Versus

State of Punjab and another

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present:- Mr. Mohit Jaggi, Advocate
for the petitioner.

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

Mr. Ajay Pal Singh Rehan, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

1 By way of present petition, the petitioner is seeking quashing of FIR No.0263 dated 18.10.2018 registered under Sections 406 and 420 of IPC, 1860 at Police Station Civil Lines, Patiala and all consequent proceedings arising therefrom on the basis of compromise.

2 On 22.12.2023, 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.0263 dated 18.10.2018, registered for offences punishable under Sections 406/420 of the Indian Penal Code, 1860 at Police Station Civil Lines, Patiala 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 03.04.2024.

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

Mr. Ajay Pal Singh Rehan, 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 15.02.2024. 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 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 30.03.2024 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 and Haryana High Court vide order dated 22.12.2023 passed in CRM-M-64770-2023 for recording the statements of the parties with regard to the compromise, both the parties appeared for recording their statements regarding compromise on 15.02.2024, the complainant Monika and accused namely Parveen Gautam remained present in the Court. The statements of complainant Monika and accused Parveen Gautam were recorded separately with regard to compromise.

Complainant Monika has suffered statement that she has entered into a compromise in the instant criminal case as well as one complaint under section 138 of N.I. Act titled as Monika Vs. Parveen Gautam with the accused Parveen Gautam in FIR No. 0263 dated 18.10.2018 under sections 406, 420 of IPC, PS Civil Lines, District Patiala vide written compromise dated 09.12.2023 and she has received the remaining amount of Rs. 90,000/- in cash from Parveen Gautam as full and final payment in lieu of compromise before this Hon'ble Court. She has already withdrawn the complainant under section 138 of N.I. Act titled as Monika Vs. Parveen Gautam and now nothing remains due towards accused and entire amount has been received by her as per the compromise dated 09.12.2023. The compromise which was effected with them is genuine and without any coercion or undue influence.

Accused Parveen Gautam has suffered statement that he has entered into a compromise in the instant criminal case as well as one complaint under section 138 of N.L. Act titled as Monika Vs. Parveen Gautam with the complainant Monika wife of Vishal Kataria in FIR No. 0263 dated 18.10.2018 under sections 406, 420 of IPC, PS Civil Lines, District Patiala vide written compromise dated 09.12.2023 and he has paid the remaining amount of Rs. 90,000/- in cash to Monika as full and final payment in lieu of compromise before this Hon'ble Court and now nothing remains due towards him and entire amount has been paid to Monika as per the compromise dated 09.12.2023. He further stated that there is no other accused arrayed in the present FIR and he is not declared Proclaimed offender in any case and the compromise which was effected with them is genuine and without any coercion or undue influence. He further stated that he is not involved in any other criminal case except the cases with the complainant.

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

Statement of Investigating officer SI Mewa Singh was also recorded separately, wherein he stated that in the present case the complainants and accused have entered into a compromise. As per FIR, there is one complainant namely Monika and there is no other complainant/aggrieved person in the present case. He further stated that there is only one accused namely Parveen Gautam and as per police record, there is no other accused except the abovesaid accused in the present FIR. He further stated that as per record accused is not declared Proclaimed Offender and no other FIR registered against the accused.

After going through the statements given by the parties and Investigating officer SI Mewa Singh, 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 the persons arrayed as accused in the FIR?

As per the statement of Investigating Officer SI Mewa Singh, only accused namely Parveen Gautam is arrayed as accused in the present FIR.

2. Whether any accused is proclaimed offender?

As per the statement suffered by Investigating Officer SI Mewa Singh, the accused is not declared proclaimed offender by the Court.

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

In view of the statement suffered by complainant Monika and accused namely Parveen Gautam, it is hereby submitted that the compromise arrived between the complainant and accused person is genuine, voluntarily and without any coercion and undue influence.

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

In view of the statement of Investigating Officer SI Mewa Singh, no other FIR is registered against the accused person.

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?

In view of statement suffered by Investigating Officer SI Mewa Singh, there is only one complainant/victim namely Monika.

Accordingly, the report of the Illaqa Magistrate on points No. 1 to 6 as directed by the Hon'ble Punjab & Haryana High Court along- with statements of parties, statement of Investigating Officer ASI Rajinder Kumar is submitted for your kind perusal, information and necessary action. The next date before the Hon'ble High Court is 03.04.2024.”

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 on instructions from ASI Dharminder Singh 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.0263 dated 18.10.2018 registered under Sections 406 and 420 of IPC, 1860 at Police Station Civil Lines, Patiala 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