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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.33625 of 2023 (O&M)

Date of decision : 20.09.2023

Nishan Chand & anr.

....Petitioners

Versus

State of Punjab & anr.

.....Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Umesh Kumar Kanwar, Advocate
for the petitioners.

Mr. Kunal Vinayak, AAG, Punjab

Mr. R.S.Dadwal, Advocate
for respondent No.2.PANKAJ JAIN, J. (ORAL)

1. By way of present petition, petitioner No.1 is seeking quashing of FIR No.282 dated 27.11.2014 registered for the offences punishable under Sections 406/420/120-B of the Indian Penal Code at Police Station Rama Mandi, District Jalandhar on the basis of compromise dated 23.06.2022 (Annexure P-8).

2. On 17.07.2023, the following order was passed :

*“ At the outset learned counsel for the petitioners submits that keeping in view that petitioner No.2 is still a proclaimed offender he prays for withdrawal qua him. He further relies upon **Lovely Salhotra & anr. Vs. State, NCT of Delhi (2018) 12 SCC 391** to submit that in such circumstances partial quashing is permissible.*

Allowed as prayed for.

By way of present petition, the petitioners seek quashing of FIR No.282 dated 27.11.2014, registered for offences punishable under Sections 406/420/120-B IPC at Police Station Rama Mandi, District Jalandhar on the basis of compromise dated 18.11.2016 (Annexure P-6).

Notice of motion.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab accepts notice on behalf of respondent No.1-State. Mr. Rajan Singh Dadwal, 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, i.e. the petitioners as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 08.08.2023. 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 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 Illaq Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.

Adjourned to 20.09.2023. ”

3. Pursuant to the aforesaid order, report dated 28.08.2023 from Judicial Magistrate 1st Class, Jalandhar has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

“(1) It is respectfully submitted that as per the statement of investigating officers of the present case, there are nine accused namely (1) Satpal, (ii) HC Mohan Lal Yadav, (iii) Lal Singh Lally, (iv) Karam Singh, (v) Harjeet Singh @ Harry, (vi) Sunny, (vii) Mukhtiar Singh, (viii) Nishan Singh and (ix) Sarabjit Singh @ Bittu in the present case. It is further submitted that out of the above stated accused only Nishan Singh has appeared and made his statement.

(2) Further as per the statement of investigating officers accused Sarabjit

Singh @ Bittu, Sunny son of Muktiar Singh and Harjit Singh @ Harry are proclaimed offenders.

It is further submitted that as per CIS system accused Satpal is proclaimed offender whereas accused HC Mohan Lal Yadav and Mukhtiar Singh were acquitted by the learned predecessor of this Court vide judgment/order dated 02.12.2022.

It is further submitted that as per record brought by the police accused Lal Singh @ Lally and Karam Singh were not arrested in this case.

(3) It is respectfully further submitted that in view of statements given by the parties this Court is of the considered opinion that compromise effected between the parties is genuine, voluntary and without any coercion or under influence.

(4) It is respectfully further submitted that as per the statement of investigating officer accused Nishan Chand is not involved in any other case.

(5) It is respectfully further submitted that statement of retired Inspector Narinder Ralh and retired ASI Ravinder Singh, investigating officers has been recorded and as per their statement there is only one complainant namely Pargat Singh in the FIR.”

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 petitioner No.1 are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR is quashed based upon the compromise dated 23.06.2022 (Annexure P-8).

6. I have heard learned Counsel for the parties and have carefully gone through the records of the case.

7. After considering judgment rendered by the Apex Court in ***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 not affected 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).*
- (ii) *The offences 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 has entered into compromise on his own volition.*

9. Consequently, the petition is allowed. FIR No.282 dated 27.11.2014 registered for the offences punishable under Sections 406/420/120-B of the Indian Penal Code at Police Station Rama Mandi, District Jalandhar and all proceedings arising therefrom, are, hereby, quashed *qua* petitioner No.1.

20.09.2023

Pooja sharma-I

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No