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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

129

CRM-M-623-2022

Date of Decision : January 10, 2022

NANU KUMAR

.....Petitioner

VERSUS

STATE OF HARYANA AND OTHERS

.....Respondent

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Through Video Conferencing

Present : Mr. Aditya Sanghi, Advocate
for the petitioner.

JASGURPREET SINGH PURI. J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. seeking quashing of the FIR (Annexure P-1) and all the consequent proceedings arising there to including final report under Section 173 Cr.P.C. (Annexure P-2).

The learned counsel for the petitioner has submitted that the present petition has been filed seeking quashing of the FIR based upon compromise. As per the FIR, the allegations were that the petitioner deliberately hurt the religious sentiments of crores of Hindus on social media publicly with the motive of provoking riots and even some dirty remarks on the most respected Lord Shri Krishna on the holy festival of Hindus i.e. Shri Krishna Janamashtami and had put obscene pictures publicly which was seen by millions of people all over India. He has further submitted that now vide Annexure P-3 vide which the complainant-respondent No.2, namely, Amit Kumar has made a

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compromise with the petitioner at the Panchayat level and, therefore, in view of the compromise effected between the parties, no useful purpose will be served in case further prosecution is carried on.

On the other hand, Mr. Naveen Singh Panwar, learned DAG, Haryana has stated that he has instructions in the present case to say that the investigation has been conducted and after conducting investigation, the challan under Section 173 Cr.P.C. has been presented before the competent Court and even charges have been framed against the petitioner. He has submitted that as per the allegations, the charges are so serious in nature and the gravity of the offence is of high magnitude and, therefore, it is not a fit case for quashing of FIR based upon compromise especially when charges have been framed even by the learned trial Court. He has vehemently opposed the quashing of the FIR in this regard.

At this stage, Mr. Lokesh Sharma, Advocate has caused appearance on behalf of respondent No.2 and has stated that he has no objection in case the FIR is quashed.

I have heard the learned counsels for the parties.

Before proceeding further, the contents of the FIR are reproduced as under:-

“Subject: For taking legal action under Section 295-A of IPC against Nanu Kumar son of Sh. Wajir, village Buan, Fatehabad, Mobile No.9467132630, who deliberately hurt the religious sentiments of crores of Hindus on social media publicly with the motive of provoking riots. Regarding the above subject, it is

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informed to you that the India is a land of gods and sages. But Nanu Kumar son of Sh. Wajir, village Bhuna, Fatehabad made dirty remarks on Lord Shri Krishna on the holy festival of Hindus Shri Krishna Janamashtami and put obscene pictures publicly which is seen by millions of people all over India on Shri Krishnma Janmasthami, where crores of Hindus were celebrating Lord Shri Krishna Janmasthami in India and on the other hand on this occasion, Nanu Kumar son of Sh.Wajir, village Buan, Fatehabad has hurt the religious sentiments and faith of crores of Hindus by deliberately commenting and posting obscene picture on Lord Shri Krishna with the motive of provoking the riots. Due to which there is great anger among Hindus. Therefore, you are requested to take strictest legal action under Section 295A of IPC with immediately effect on this Nanu Kumar son of Sh. Wajir, village Bhuna, Fatehabad. Enclosures: Screen Shot copy of facebook, photo and video CD.“

A perusal of the aforesaid allegations against the petitioner would show that the present offence is an offence against the society at large and it is not a case of a private offence where only one person is affected whereas society at large is being affected by the aforesaid allegations. Furthermore, the law with regard to the quashing of FIR based upon compromise is no longer res integra. The Hon'ble Supreme Court in *The State of Madhya Pradesh Vs. Laxmi Narayan and Others 2019 (2) SCC (Crl.) 706*, while referring to the earlier judgments of the Hon'ble Supreme Court laid down various parameters as to under what circumstances an FIR can be quashed based upon compromise. It is a settled law that the High Courts while exercising powers under Section

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482 Cr.P.C. must consider whether it would be unfair or contrary to the interests of justice to continue with the criminal proceedings or continuation of the criminal proceedings would tantamount to abuse of the process despite settlement and compromise arrived at between the victim and the wrong doer and whether to secure the ends of justice, it will be appropriate that criminal case be put to an end and if the answer to the same is in the affirmative then the High Courts shall be within its jurisdiction to quash the criminal proceedings. However, such a power under Section 482 Cr.P.C. is to be exercised very sparingly and with caution and can be used only to secure the ends of justice or to prevent abuse of process of Court and while exercising the powers, the High Court is to see as to whether the possibility of conviction is very less or remote and continuation of criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. In nutshell, the decision as to whether an FIR is required to be quashed on the basis of compromise would be on the basis of facts and circumstances of each case and there can be no exhaustive elaboration of principles in this regard.

While exercising the powers under Section 482 Cr.P.C., the Court has to see as to whether in the facts and circumstances of a particular case it would be a fit case for quashing of the FIR and one of the basic parameter is to prevent the abuse of the process of law. In the present case, however, the offence is so serious in nature and involving large public interest and society at large and there is nothing to show that quashing of the FIR at this stage will prevent the abuse of the process of

law.

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Finding no merit in the present petition, the same is, hereby,

dismissed.

(JASGURPREET SINGH PURI)
JUDGE

January 10, 2022

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Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No

