

233 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-26298-2021 (O&M)

Date of decision :15.09.2021

Pinku Kumar and Others

... Petitioner(s)

Versus

The State of Haryana and Another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Govind Chauhan, Advocate for the petitioners.

Mr. Bhupender Singh, DAG Haryana
for respondent No.1.

Mr. Kulwant Singh, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

On 12.07.2021, the following order was passed:

“ Learned counsel refers to Annexure P-3 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.43 dated 15.02.2021 registered under Sections 323, 427, 506 and 34 IPC, 1860 at Police Station Butana, District Karnal.

Notice of motion for 15.09.2021.

At this stage, Mr. Sukhdeep Parmar, DAG, Haryana, accepts notice on behalf of the respondent-State. A complete copy of the paper book has been supplied to him.

At this stage, Mr. Kulwant Singh, Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on or before 28.07.2021 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report on or before the next date of hearing containing the following information :-

- 1.Number of persons arrayed as accused in 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 through fax to the Registrar Judicial of this Court.”

Learned counsel for the petitioners would contend that the parties had appeared before the Judicial MagistrateI st Class, Karnal and got their statements recorded. Learned counsel for the petitioners has also pointed out that the cross FIR being FIR No.42 dated 15.02.2021 lodged under Sections 148, 149, 323, 354, 506 IPC and Section 3(ii)(va) of SC/ST (Prevention of Atrocities) Act, 1989 has also been quashed by this Court in CRM-M-26517-2021 vide order dated 14.09.2021.

Report dated 25.08.2021 has since been received from the Court of Mr. Harleen Pal Singh, Judicial Magistrate (1st) Class, Karnal, wherein it has been stated as under:-

“i) Only four accused were arrayed in the FIR namely, Pinku and Raj Kumar, Pawan and Vinod. Affected person is complainant-Dalbir. Challan against accused Pinku and Raj Kumar submitted before the Court.

ii) No accused have been stated to be absconding or has been declared proclaimed offender in the instant case.

iii) As per the statements made by the complainant and accused before this Court, the under-signed is of the considered view that the instant compromise between complainant and accused is genuine and the same has been executed voluntarily and out of free will by the parties.

iv) As per the statement of the Investigating Officer, accused are not involved in any other case.

v) As per the statement of the IO, except the complainant, there are three other injured persons namely, Visawjeet son of Gurmukh Singh, Gurmukh Singh son of Tehal Singh, Dilbag Singh residents of Village Poojam.”

It has also been mentioned in the report that the compromise arrived at between the parties is voluntary, genuine and not the result of any pressure or coercion.

The Apex Court in the case of **“Gian Singh V/s State of Punjab &Anr.”** 2012 (10) SCC 303, has held as under:-

“57. The position that emerges from the above discussion can be summarized thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and

circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and

wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Learned counsel for the petitioners has also referred to the law laid down by this Court in “**Kulwinder Singh &Ors. Vs. State of Punjab &Anr.**” 2007 (3) RCR (Criminal)1052, wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings to prevent abuse of law and secure the ends of justice.

In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

Resultantly, FIR No.43 dated 15.02.2021 under Sections 323, 427, 506, 34 of the Indian Penal Code, 1860 registered at Police Station Butana, District Karnal and all subsequent proceedings arising therefrom, stand quashed.

The petition is accordingly allowed.

September 15, 2021
tripti

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable :YES/NO