

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M-34822-2021 (O&M)
Date of decision: 22.09.2021

Bhola Singh @ Khachar @ Balwinder Singh

...Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Jagraj Singh Khiva, Advocate for the petitioner.

Mr. H. S. Sitta, AAG Punjab.

Mr. Ishan Thakur, Advocate for
Mr. L.S. Sidhu, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This petition is for quashing of FIR No. 22 dated 24.02.2017, registered under Sections 341, 323, 427, 147 and 149 IPC, at Police Station Bareta, District Mansa, along with all the consequential proceedings arising therefrom, on the basis of compromise dated 23.04.2018 (Annexure P-4).

Learned counsel for the petitioner submits that in the aforesaid FIR, compromise dated 23.04.2018 was effected between complainant-respondent No. 2 and all the accused. However, all the accused, except the

petitioner, had filed CRM-M-25571-2019 for quashing of the FIR and all the consequential proceedings on the basis of the said compromise, by impleading the petitioner as a proforma respondent therein. Vide order dated 02.07.2021 passed by this Court, the said petition was allowed and the FIR along with all the consequential proceedings qua the petitioners therein, was quashed. However, not being a co-petitioner in the said petition, the said FIR and other consequential proceedings still exists against the petitioner.

Learned counsel for the petitioner further submits that in the aforesaid proceedings, the statement of the present petitioner along with others, was also recorded before the Illaqa Magistrate/trial Court regarding the genuineness of the compromise in CRM-M-25571-2019.

Notice of motion.

On the asking of this Court, learned State counsel and learned counsel for respondent No. 2, accepts notice and does not dispute the aforesaid factual position.

This Court has perused the file of CRM-M-25571-2019, which indicates that the statement of the petitioner was also recorded along with the complainant and other accused of the FIR. Thus, there is no requirement of again relegating the parties for recording their statements qua the genuineness of the compromise, before the Illaqa Magistrate/Trial Court.

The Hon'ble Full Bench of this Court in case **Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052** and Hon'ble Division Bench of this Court in case **Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102** observed that

compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

The Hon'ble Apex Court in the case of Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543 has held as under:-

“57. The position that emerges from the above discussion can be summarised 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 predominatingly 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 personnel 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.”

The same view has been reiterated by Hon'ble the Apex Court in case **Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.**

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, the present petition is allowed. FIR No. 22 dated 24.02.2017, registered under Sections 341, 323, 427, 147 and 149 IPC, at Police Station Bareta, District Mansa, along with all the consequential proceedings arising therefrom, are hereby quashed qua the present petitioner also, on the basis of compromise dated 23.04.2018 (Annexure P-4), subject to depositing the costs of Rs.10,000/- by the petitioner with the Shri Guru Granth Sahib Sewa Society (Regd.), opposite New Public School, Sector-18, Chandigarh.

Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.

22.09.2021 <i>Mangal Singh</i>	(HARNARESH SINGH GILL) JUDGE
Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No