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

CRM-M-37250-2020

Date of Decision: 11.02.2021

HAPPY @ SURAJ PARKASH AND OTHERS

PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. A.S. Manaise, Advocate for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

Mr. G.S. Manku, Advocate for respondent No.2.

AVNEESH JHINGAN, J (Oral):

This petition is for quashing of FIR No. 83, dated 28.4.2020 registered under Sections 341, 323, 325, 506, 188 and 34 IPC at Police Station Dinanagar, District Gurdaspur and all consequential proceedings arising therefrom. The quashing is sought on the basis of compromise.

The FIR was at the instance of Rajesh Kumar. The allegations were that when Rajesh Kumar was standing near Ohri Nursery on his motorcycle, petitioners attacked him and inflicted injuries.

The parties have compromised the matter with the intervention

of respectables and approached this Court for quashing.

Following order was passed by this Court on 11th November, 2020:-

“ The matter is taken up for hearing through video conference due to COVID-19 situation.

Notice of motion.

Ms. Samina Dhir, DAG, Punjab and Mr. Gagandeep Singh Manku, Advocate appearing on advance notice accept the same on behalf of respondents No. 1 and 2, respectively.

Learned counsel for the petitioners and respondent No.2 are ad idem that the matter has been compromised.

Learned counsel for respondent No.2 is not opposing the quashing of FIR.

Let the parties appear before Illaqa Magistrate/trial Court on 27.1.2021 for recording their statements with regard to the compromise/settlement.

The trial court 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 accused is proclaimed offender; and*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

List on 11.2.2021.”

The report dated 29th January, 2021 is received to the effect that the compromise is genuine, without any coercion or undue influence and none of the accused is declared proclaimed offender.

The Supreme Court in Parbatbhai Aahir @ Parbatbhai

Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017

under Section 482 of Cr.P.C. The relevant portion is reproduced as *under:-*

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in

punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

(emphasis supplied)

Considering that all the accused are residents of small town and have decided to live peacefully hereinafter. No useful purpose would be served by continuation of trial, the above mentioned FIR with all subsequent proceedings arising therefrom are quashed.

The petition is disposed of.

[AVNEESH JHINGAN]
JUDGE

11th February, 2021

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |