

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

CRM-M-42603 of 2020

DECIDED ON: 22nd JANUARY, 2021

Ajju @ Randheer and others

.....PETITIONERS

VERSUS

State of Haryana and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Amit Jain, Advocate for petitioner.

Mr. Deepak Bhardwaj, DAG Haryana.

Mr. Deepak K. Bartia, Advocate for complainant.

AVNEESH JHINGAN, J (ORAL)

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

This is a petition for quashing of FIR No. 311 dated 17.11.2020 under Sections 365, 323, 506, 142, 427, 34 IPC, registered at Police Station DLF Phase-3 District Gurugram. The FIR was at the instance of Mahender Kumar @ Rahul. It was alleged that on 16/17.11.2020 four youngmen came in a Baleno car at Hotel Shahi Muradabadi Chicken Biryani. Ajju @ Randheer, Avinash, Rocky and Gourav started beating the complainant and ransacked the hotel. The owner of the hotel and other workers tried to save the complainant and raised alarm but the accused took the complainant in a Baleno car and gave beatings. He was shifted to Scorpio car bearing registration No. HR-26EG-0863, somehow, the complainant was able to free himself from the clutches of the accused.

During the pendency, the parties entered into a compromise dated 1.12.2020. It is so stated that on intervention of respectables and common friends, the parties have decided to live peacefully without having any grouse against each other. On 17.12.2020, this Court directed the parties to appear before the trial Court/Duty Magistrate for recording of statements.

Report dated 11.1.2021 is received from the Judicial Magistrate Ist Class, Gurugram stating that the compromise is genuine and without any coercion. None of the accused has been declared as proclaimed offender.

Learned counsel for the complainant has no objection if the FIR is quashed.

Learned State counsel submits that offences are non-compoundable and the FIR should not be quashed.

Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab***, 2007 (3) RCR (Criminal) 1052, has held as under:

"29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Criminal Procedure Code is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Criminal Procedure Code has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is

abhorrent to lawful composition of the society or would promote savagery."

Hon'ble the Apex Court in the case of ***Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 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 2 of 3 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 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.”

The parties on intervention of respectables have decided to patch up their difference. There is nothing to show that nature of the injuries were serious. To meet the ends of justice and that no useful purpose would be served by continuing with the trial, the above mentioned FIR alongwith all consequent proceedings arising therefrom are quashed.

The petition is disposed of.

(AVNEESH JHINGAN)
JUDGE

22nd JANUARY, 2021

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Whether speaking/reasoned	Yes
Whether reportable	Yes