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

**CRM-M-43491-2020 (O&M)
Date of Decision: 26.10.2021**

Sukhdev Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE SUDIP AHLUWALIA

Present: Mr. Karanjeet Singh Brar, Advocate,
for petitioners No.1 and 6.

Mr. N.S. Kamboj, Advocate,
for petitioners No.2 to 5, 7 and 8.

Mr. B.S. Sewak, Additional Advocate General, Punjab,
for respondent No.1/State.

Mr. APS Sandhu, Advocate,
for respondents No.2 to 4.

SUDIP AHLUWALIA J. (ORAL)

CRM-35594-2021:

Allowed as prayed for, subject to all just exceptions.

CRM-35595-2021:

Applicants/petitioners are permitted to place on record the
documents, being Annexures P-8 to P-10.

Application stands disposed off.

CRM-M-43491-2020:

In this petition, the petitioners, who are the accused persons in F.I.R No.394, dated 14.08.2017, under Sections 420 and 120-B of the Indian Penal Code (Section 13 of the Punjab Prevention of Human Smuggling Act, added later on), registered at Police Station Civil Lines, Amritsar (Annexure P-1), have prayed for quashing of F.I.R. with all subsequent proceedings, on the basis of compromise.

2. Vakalatnama of Mr. Karanjeet Singh Brar, Advocate has been filed on behalf of petitioners No.1 and 6; Be kept on record.

3. Facts in brief are that the present FIR was got registered by the Complainant-Gunji Puri. In the said FIR, petitioners No.1, 2, 3, 6 and 8 have been declared Proclaimed Offenders and FIR No.394 dated 14.08.2017 under Sections 420 & 120-B of the IPC and Section 13 of the Prevention of Human Smuggling Act, has been registered at Police Station Civil Lines, Amritsar City against them for not appearing before the Court.

4. With the intervention of respectables and elderly people of the society, respondent No.2/complainant as also the other private respondents No.3 and 4 have arrived at a settlement with the accused persons vide the Compromise-cum-Memorandum of Understanding (Annexure P-4), which is duly signed by both the parties.

5. Earlier on 23.12.2020, this Court had directed recording of statements of all the concerned parties by the Ld. Trial Court/Illaq Magistrate to verify about the veracity of the compromise arrived at between them, apart from providing information pertaining to the accused persons involved and whether any of them have been declared proclaimed offenders. Report of the Ld. Judicial Magistrate Ist Class, Amritsar by way

of his communication No.196 dated 31.03.2021 has since been received, in which after recording of statements of the concerned parties, the Ld. Magistrate has reported that the compromise effected between them is genuine and is out of their free will, and that there was no other accused persons, apart from the present eight petitioners, but petitioners No.1, 2, 3, 6 and 8, namely Sukhdev Singh, Kaushlya Devi, Sampuran Singh, Shivam Kamboj and Suraj Kumar were declared Proclaimed Offenders.

6. Reliance of Ld. Counsel for the petitioners in this regard is on the decision of a Co-ordinate Bench of this Court passed in **CRM-M Nos.8951 & 8952 of 2011**, both titled as “**Sanjiv Kumar @ Rinku Vs. State of Punjab and another**”, decided on 18.04.2011, in which it was observed, *inter alia*:-

“Taking into account that the matter has been compromised between the petitioner and the complainant and the petitioner is stated to have been now arrested and is in custody, the fact that petitioner has been declared proclaimed offender should not stand in the way to accept the compromise and quash the FIRs in the facts of the present case.”

7. Hon'ble the Supreme Court in the case of **Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others** reported as (1980) 1 SCC 63, held that:-

“29. No embargo, be in the shape of Section 320 (9) of the Cr.P.C. or any other such curtailment, can whittle down the power under Sections 482 of the Cr.P.C.”

8. While relying on the aforesaid judgment of the Apex Court, this Court in the case of **Jobanjit Singh v. State of Punjab and others** (Crl.

Misc. No.10033 of 2009, decided on 29.7.2009) quashed the proceedings declaring the petitioner as proclaimed offender by observing as under:-

“ Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case, once the matter has been compromised between the parties, no useful purpose will be served by proceedings with the prosecution. Accordingly, order dated 23.12.2000 passed by the Judicial Magistrate Ist Class, Ropar (Annexure P-3) declaring the petitioner as proclaimed offender, FIR No.38 dated 5.7.2000, registered at Police Station Chamkaur Sahib, District Ropar, under Sections 323,325,341,148 and 149 IPC (Annexure P-1) and all subsequent proceedings arising therefrom are quashed qua the petitioner.”

9. Similar view was also held by this Court in the case of **Gurpreet Singh v. State of Punjab and another** (CRM No.M-1238 of 2007 decided on 29.1.2007).

10. The Full Bench of this Court, in the case of **Kulwinder Singh and others v. State of Punjab and another** 2007(3) RCR (Criminal) 1052 has held that the compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”. Disputes which have their genesis not only in matrimonial discord but others as well, such compromise deserves to be accepted. It is further held as under:-

“ The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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 Cr.P.C in order to prevent the abuse of law and to secure the ends of justice.”

11. In the case of **Madan Mohan Abbot v. State of Punjab** 2008

(4) S.C. Cases 582, the Apex Court emphasised and advised as under:-

“ We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

12. Ld. Counsel appearing for respondents No.2 to 4 also does not dispute the factum of compromise.

13. Taking into account that the compromise has been effected between the parties, and respondent No.2/complainant as also the other private respondents No.3 and 4 have no objection if the FIR is quashed qua the present petitioners/accused persons, it is a fit case where there is no impediment in the way of the Court to exercise its inherent powers under Section 482 Cr.P.C. for quashing of FIR in the interest of justice.

14. In the circumstances, the present petition is allowed. F.I.R No.394, dated 14.08.2017, under Sections 420 and 120-B of the Indian

Penal Code (Section 13 of the Punjab Prevention of Human Smuggling Act, added later on), registered at Police Station Civil Lines, Amritsar (Annexure P-1), with all consequential proceedings arising therefrom, is hereby quashed qua the present petitioners.

26.10.2021

Apurva

(SUDIP AHLUWALIA)
JUDGE

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