

240

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

CRM-M-692-2022 (O&M)
Date of Decision: 13.12.2022

RAVI KUMAR AND ANR

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. M.K. Bhatnagar, Advocate
for the petitioners.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Mr. Mandeep Dhul, Advocate for
Mr. S.K. Bawa, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.0093 dated 07.04.2021, under Sections 406, 420 and 120-B of Indian Penal Code and Section 13 of Punjab Travel Professional (Regulation) Act 2014 registered at Police Station Phillaur, District Jalandhar Rural (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 30.03.2021 (Annexure P-2) arrived at between the parties.

Affidavit on behalf of respondent No.2-Ashok Kumar son of Shri Makha Ram has been filed in the Court today and the same is taken on record, subject to all just exceptions.

Vide order dated 25.02.2022, the Illaqa Magistrate/trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise, in terms of order dated

10.01.2022, a co-ordinate bench of this Court had passed the following order:-

“Heard through video conferencing

The petitioners are seeking quashing of FIR No.93 dated 07.04.2021, under Sections 406, 420, 120-B IPC and Section 13 of the Punjab Travel Professional (Regulation) Act, 2014 registered at Police Station Phillaur District Jalandhar Rural, on the basis of compromise dated 30.03.2021 (Annexure P-2), which has been arrived at between the parties.

Learned counsel for the petitioners contends that the FIR is outcome of a monetary dispute which has now been resolved and the matter has been compromised. He has referred to the copy of the compromise at Annexure P-2.

Issue notice to the respondents.

At the asking of the Court, Mr. Dhruv Dayal, Senior DAG, Punjab, accepts notice on behalf of respondent No.1.

Mr. Sanjeev Kumar, Advocate has put in appearance on behalf of the complainant/respondent No.2 and states that the matter has indeed been compromised.

List on 25.02.2022.

In the meantime, the parties are directed to appear before Illaqa Magistrate/trial Court on 27.01.2022. The Illaqa Magistrate/trial Court shall record their statements with regard to the genuineness of the compromise as to whether the compromise has been effected between the parties without any undue influence or coercion and send the report to this Court before the next date of hearing.”

In compliance thereof, the Sub Divisional Judicial Magistrate, Phillaur, District Jalandhar has submitted its report, vide letter dated 02.02.2022 which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner.

Relevant extract of the said report is reproduced as under:-

“In compliance of directions passed by the Hon'ble Punjab and Haryana High Court, accused/petitioner no.1 Ravi Kumar and complainant/respondent no.2 Ashok Kumar appeared before this Court on

27.01.2022.

But accused/petitioner no.2 Vashist Koch had not appeared before the Court of undersigned to get his statement recorded, as per the direction issued by the Hon'ble High Court, vide order dated 10.01.2022.

Statement of respondent no. 2/complainant Ashok Kumar S/o Makha Ram has been recorded. He has stated that he is the only complainant in this case. He has compromised the matter with accused Ravi Kumar S/o Ram Lubhaya out of his free will and without any pressure, threat, coercion or promise. He has no grudge against the above said accused. He has also admits compromise dated 30.03.2021. He has no objection if the above said FIR be quashed against the accused. He has produced copy of his Aadhar Card, which is Ex.P1.

Similarly, statement of Ravi Kumar S/o Ram Lubhaya has been recorded. He has stated that the matter has been compromised with complainant Ashok Kumar. He further stated that the said compromise has been arrived at between him and complainant without any threat, coercion, pressure or promise. He further stated that he will maintain peace and harmony. He further stated that the present FIR on the basis of compromise dated 30.03.2021 may kindly be quashed against him. He has produced copy of his Aadhar Card as identity proof as Ex.P2.

Before recording her statement, she was orally informed that if there is any type of coercion or undue influence on them, she can refuse to make the statement, to which, she replied in negative.

They have been identified by their respective counsels. They have also placed on record their ID proofs.

Since accused Vashist Koch has been arrayed as petitioner no.2 in CRM-M No.692 of 2022 pending before the Hon'ble High Court and were directed vide order dated 10.01.2022 by the Hon'ble High Court to appear before this Court on 27.01.2022 and get his statement recorded with regard to compromise. On 27.01.2022 as directed by the Hon'ble High Court, petitioner no.2/accused Vashist Koch did not turn up to get his statement recorded. Hence, in his absence it cannot be said that compromise is complete or genuine, voluntarily or without any undue influence.

It is further submitted that the statement of petitioner no.1/accused Ravi Kumar and complainant/respondent no.2 Ashok Kumar, which was recorded by the undersigned on 27.01.2022 and their ID proofs are being sent to the Hon'ble High Court along with this report.”

A perusal of the above extracted report would show that out of

the two petitioners, the statements of only petitioner No.1 and complainant-

respondent No.2 were recorded by the Sub Divisional Judicial Magistrate, Phillaur. However, petitioner No.2-Vashist Koch, remained absent.

Today an affidavit dated 06.12.2022 has been filed by respondent No.2-Ashok Kumar. The relevant extract thereof reads as under :-

“1. That the dependent has lodged an FIR No.0093 dated 7.04.2021 under section 406/420/120-B of IPC and section 13 of Punjab travel professional (Regulation) Act 2014 in PS Phillur, Distt Jalandhar Rural.

2. That the deponent has executed compromise annexure- P/2 with both the petitioners and the deponent have no objection if the said FIR will quashed against both the petitioners. Specially against the petitioner No.2 is not coming forward to get record his statement before Trial Court in compliance of orders passed by this Hon'ble Court.

3. That as per information of the deponent the petitioner No.2 has left the country but the deponent is still comply with the terms and conditions of the compromise.”

A perusal of said affidavit reveals that the complainant has no objection, if the FIR is quashed qua both the petitioners.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR in question.

I have heard the learned counsel for the parties and have perused the file. After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant.

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 pre-dominantly 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.”

In ***Shakuntala Sawhney Vs. Kaushalya Sawhney, (1979) 3 SCR 639, at P 642***, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

Considering the entire facts, compromise, the statements of the parties recorded before the Illaqa Magistrate / Trial Court and also the affidavit dated 06.12.2022 filed by respondent No.2 in Court today; since the parties have arrived at a compromise by amicably settling their disputes and have decided to live in peace, no useful purpose will be served in allowing the criminal proceedings to continue against petitioners.

Further, in the light of the above mentioned judicial precedents, when the parties have entered into a compromise, then continuation of the proceedings would be mere an abuse of process of the Court.

In order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, I am of the considered view that it would be in fitness of things to quash the proceedings on the basis of compromise and by quashing the FIR while accepting the prayer of petitioners, would be securing the ends of justice.

Accordingly, this petition is allowed. FIR No.0093 dated 07.04.2021, under Sections 406, 420 and 120-B of Indian Penal Code and Section 13 of Punjab Travel Professional (Regulation) Act 2014 registered at Police Station Phillaur, District Jalandhar Rural (Annexure P-1) and all the consequent proceedings arising therefrom, are quashed qua petitioners. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by petitioner with the **“Poor Patients Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

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

All pending application(s), if any, shall stand disposed of.

13.12.2022

Amandeep

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No