

CRM-M-4655-2021

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

CRM-M-4655-2021 (O & M)

Date of decision: 11.05.2022

Sameer Kumar Mittal

...Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Nitin Kant Setia, Advocate,
for the petitioner.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

Mr. Mukesh Singh Tomar, Advocate,
for respondents No.2 and 3.

HARNARESH SINGH GILL, J. (ORAL)

CRM-16826-2022

This is an application under Section 482 Cr.P.C. for impleading Gurpreet Singh as respondent No.3 in the present petition, and for placing on record the amended memo of parties.

It is mentioned in the application that vide order dated 01.04.2021, the parties were directed to get their statements recorded before the trial Court. However, inadvertently, one Gupreet Singh, who had also suffered injuries in the accident, has not been impleaded as a party respondent in the main petition. Moreover, Gurpreet Singh has also got his statement recorded before the trial Court with regard to the genuineness of the compromise. In such circumstances, it is prayed that the present

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application for impleading Gurpreet Singh as respondent No.3, be allowed.

Notice in the application.

On the asking of this Court, Mr. Ajay Pal Singh Gill, DAG, Punjab, accepts notice on behalf of respondent No.1-State.

At this stage, Mr. Mukesh Singh Tomar, Advocate, puts in appearance on behalf of respondent No.2 and Gurpreet Singh (proposed respondent No.3), and submits that the matter has also been compromised between the petitioner and Gurpreet Singh.

Learned State counsel and learned counsel for respondent No.2 and Gurpreet Singh (proposed respondent No.3) submit that they have no objection, if the present application is allowed.

In view of the above, the present application is allowed. Amended memo of parties is taken on record. Registry is directed to tag the same at an appropriate place.

On the oral request of the learned counsel for the parties, date of hearing of the main petition is preponed from 13.05.2022 to that of today and the main petition is taken on the Board for hearing.

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This petition has been filed for quashing of FIR No.356 dated 05.12.2019, under Sections 279, 337 and 427 IPC, registered at Police Station Bhawanighr, District Sangrur, and all the subsequent proceedings arising therefrom, on the basis of compromise dated 26.12.2020 (Annexure P-2), arrived at between the parties.

Vide order dated 01.04.2021 passed by this Court, the trial Court/Illaq Magistrate had been directed to record the statements of the

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parties with regard to the genuineness and authenticity of the compromise.

In compliance thereof, the learned Addl. Chief Judicial Magistrate, Sangrur, has submitted a report, vide letter dated 08.04.2021, indicating that the parties, including respondent No.3 (newly added), had 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.

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

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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-dominatingly 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 also 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.

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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.356 dated 05.12.2019, under Sections 279, 337 and 427 IPC, registered at Police Station Bhawanigrh, District Sangrur, and all the subsequent proceedings arising therefrom, are quashed qua the petitioner on the basis of compromise dated 26.12.2020 (Annexure P-2), subject to him depositing the costs of Rs.10,000/- with the Lawyers' Welfare Fund, Punjab and Haryana High Court, Chandigarh.

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

11.05.2022

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No