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

(1)

CRM-M-20611-2019

Date of decision: 22.03.2022

AKSHAY KUMAR AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

(2)

CRM-M-22009-2019

VINU SEHGAL AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR**

Present: Mr. Pranav Handa-2, Advocate  
for the petitioners in CRM-M-20611-2019 and  
for respondents No. 2 to 3 in CRM-M-22009-2019

Mr. Pranav Handa-1, Advocate for  
the petitioners in CRM-M-22009-2019 and  
for respondent No.2 in CRM-M-20611-2019

Mr. Bhupender Beniwal, AAG, Punjab.

(Through Video Conferencing)

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**SURESHWAR THAKUR, J. (ORAL)**

1. This common order shall dispose of both above petitions, as, they arise out of the main version, as, averred in the FIR, and, its cross version, as, carried in the DDR.

2. These petitions have been filed under Section 482 of the Cr.P.C., by the petitioners seeking quashing of FIR No.8, dated 14.01.2014, constituting therein offences, under Sections 323, 336, 506, 148, 149 of the IPC, 1860 &

under Sections 25, 27, 54, 59 of The Arms Act, 1959, lodged at Police Station  
ITHLESH KUMAR  
2022.03.24 18:27  
I attest to the accuracy and  
authenticity of this order

Division No.3, Jalandhar, District Jalandhar, and, of cross case registered vide DDR No. Nil dated 15.01.2014, lodged under Sections 323, 336, 506, 148, 149 of the IPC, 1860 & under Sections 25, 27, 54, 59 of The Arms Act, 1959, and, also of all consequential proceedings arising therefrom, hence on the basis of common compromise (Annexure P-2) arrived at between the parties.

3. When both the instant petitions came up before this Court on 18.07.2019, this Court, made the hereinafter extracted order(s).

**CRM-M-20611-2019**

*“Learned counsel for the petitioners refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of DDR (cross version case) dated 15.01.2014 (Annexure P-1) under Sections 323, 336, 506, 148 and 149 IPC and Sections 25, 27, 54 and 59 of Arms Act registered at Police Station Division No.3, Jalandhar, District Jalandhar City, arising out of FIR No.8 dated 14.01.2014 on the basis of compromise dated 23.04.2019 (Annexure P-2).*

*Notice of motion for 15.11.2019.*

*Mr. Pranav Handa-I (P-2949-12), Advocate causes representation on behalf of respondent No.2 and admits the factum of compromise.*

*Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 08.08.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

*4. Whether the accused persons are involved in any other case or not.*

*5. The trial Court is also directed to record the statement of the Investigation Officer as to how many victims/complainants are there in the FIR.*

*A copy of the report be also sent through fax to the Registrar Judicial of this Court."*

#### **CRM-M-22009-2019**

*"Learned counsel for the petitioners refers to Annexure P-2 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.8 (version case) dated 14.01.2014 (Annexure P-1) under Sections 323, 336, 506, 148 and 149 IPC and Sections 25, 27, 54 and 59 of Arms Act registered at Police Station Division No.3, Jalandhar, District Jalandhar City on the basis of compromise dated 23.04.2019 (Annexure P-2).*

*Notice of motion for 15.11.2019.*

*Mr. Pranav Handa-2 (P-2190-16), Advocate causes representation on behalf of respondents No.2 and 3 and admits the factum of compromise.*

*Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 08.08.2019 for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate 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 any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*

*5. The trial Court is also directed to record the statement of the Investigation Officer as to how many victims/complainants are there in the FIR.*

*A copy of the report be also sent through fax to the Registrar Judicial of this Court”*

4. The afore made orders by this Court on 18.07.2019, have been complied with by the learned Magistrate concerned, and, the elicited report has been placed on record. A perusal of the reports, transmitted to this Court, by the learned Magistrate concerned, reveals that the settlement(s)/compromise(s), arrived at *inter se* the petitioners, and, the respondent(s)-complainant, is a sequel of both, being *ad idem* qua it, besides the compromise(s)/settlement(s) being a sequel of no pressure or coercion, being exercised upon each other. Moreover, the common compromise is reported to be compositely drawn, and, thereons exist the signatures of all concerned, in the penal transactions concerned. Therefore, the learned Magistrate has reported that the settlement(s)/compromise(s), depended upon by the petitioners, for seeking quashing of the FIR (supra), and, of DDR concerned, is/are both voluntary, and, also free from vices of duress, and, or of compulsion, being exercised upon each other, besides are genuine.

5. Moreover, though in one petition bearing No. CRM-M-22009-2019 one of the accused namely one, Raghu Sehgal is not added, as co-petitioner but is added, as performa respondent No.4, and, also has not signed the compromise. However, his not signaturing the compromise, is covered by the relevant clause carried therein, wherein, the complainant agrees that they have no objection, in case the FIR concerned, is quashed qua the above Raghu Sehgal, in case his father makes a statement. Since the father of Raghu Sehgal one, Raj Kumar Sehgal has appended his signatures on the compromise concerned, and, has

concerned, therefore, the instant petition is amenable for being allowed, even qua co-accused named Raghu Sehgal.

6. Today, the learned counsel appearing for the State of Punjab, has contended before this Court, that the relief, as claimed by the petitioners, in both the petitions, cannot be granted, as some of the offences constituted against the accused-petitioners concerned, inasmuch as, those under Sections 336, 148, 149 of the IPC, are non-compoundable.

7. However, for the reasons to be assigned hereinafter, the afore prayer, as made by the learned State counsel, cannot be accepted by this Court. The pre-eminent reason for dispelling the vigour of afore made argument, is rested, upon the factum of also a statement, being made before this Court, by the learned counsel for the petitioners, that the investigating officer has not yet preferred a report under Section 173 Cr.P.C., before the learned Magistrate concerned.

8. The effect of the afore statement, as made with extreme vehemence by the learned counsel for the petitioners, and, also the effect of the statement made by the learned counsel appearing for the State of Punjab, is that the relevant parameters as encapsulated in a verdict of the Hon'ble Apex Court, rendered in case titled as, ***Gian Singh versus State of Punjab and another 2012 (4) RCR (Criminal) 543***, inasmuch as a postulate/occurring therein, that the inherent power under Section 482 Cr.P.C., hence for compounding the relevant offence, through recourse being made to the provisions of Section 482 Cr.P.C., as vested in the High Court, for quashing of criminal proceedings, as/of FIR or complaint, rather being distinct and different from the power given to a criminal Court, being enjoined to become tested vis-a-vis the facts in hand, for apposite application thereon. However, it has also been held therein, the afore power

vested in the High Court, is of the widest plenitude, with no statutory limitation, being placed thereon, yet it has to be exercised to secure the ends of justice, and, to prevent the abuse of process of any Court. Though no straightjacket formula, has been contemplated therein, for recourse being made to the mandate of Section 482 Cr.P.C., hence for quashing of an FIR, or criminal proceedings or complaint, yet the essential rubric viz-a-viz its valid exercising, is comprised in the principle, that if the accused and the complainant rather enter into a valid *ad idem* settlement, and, when thereupon the conviction of the accused becomes remote and bleak. Consequently, it has been mandated, that unless the offence sought to be quashed, through exercising of the power vested under Section 482 Cr.P.C., are not serious and heinous, inasmuch as the afore, do not embody offences appertaining to murder, rape, dacoity etc., and, or when the offences are in relation to special statutes like Prevention of Corruption Act or offences committed by public servants, while working in that capacity, thereupon it can be permissibly exercised. However, upon evident existences of embargos (supra), spelt in the verdict (supra), thereupon, the High Courts are barred, through recouring the mandate of Section 482 Cr.P.C., hence, to quash the FIR or quash the criminal proceedings appertaining to serious/heinous offences (supra).

9. It is apt to extract the relevant paragraph of the verdict made by the Hon'ble Apex Court in ***Gian Singh***'s case (supra).

*“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 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.”*

10. Since the offence(s) under Sections 336, 148, 149 of the IPC does not, *prima facie*, appear to be so grave and nor are so heinous, so as to attract the rigour of the embargo (supra) foisted upon the High Court in verdict (supra). Therefore, the settlement/compromise, as validly entered into, enjoins its being reversed. Consequently, even if the afore offences are non-compoundable, this Court does not deem it fit to accept the contention(s) of the learned State counsel, that this Court, may not through recouring the mandate of Section 482 Cr.P.C., quash the FIR. In aftermath when rather thereupons, the chances of the petitioners being convicted are remote as well as bleak. In sequel, the ordering for the trial of the accused, would result in harassment and humiliation, being caused to the accused, besides would defeat the ends of justice.

11. Furthermore, an immense support to the afore made view, is also derived from the judgment rendered by the Punjab and Haryana High Court in case titled as ***Vinod @ Boda and others versus State of Haryana and another 2017(1) R.C.R. (Criminal) 571***, wherein also, the above view has been reiterated.

12. There is merit in the petitions, and, both the same are allowed. Consequently, after accepting the report of the learned Magistrate concerned, this Court proceeds to quash the FIR (supra) as well as the cross case.

13. Accordingly, the FIR (supra), and, the cross cross, as arises out of the same, and, also all the consequential proceedings, hence arising therefrom, are all quashed qua the petitioners.

14. Pending miscellaneous application(s), if any, stand(s), disposed of.

22.03.2022

*Ithlesh*

(SURESHWAR THAKUR)  
JUDGE

|                             |        |
|-----------------------------|--------|
| Whether speaking/reasoned:- | Yes/No |
| Whether reportable:-        | Yes/No |