

222-A

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

**CRM-M-45695-2017 (O&M)
Date of Decision: 01.12.2022**

Deepak Kumar

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Rose Gupta, Advocate and
Ms. Garima Modi, Advocate
for the petitioner.

Mr. Amrik Narwal, DAG, Haryana
for respondent No.1/State.

None for respondent No.2.

HARSH BUNGER J. (ORAL)

CRM-34624-2022:

Present application is filed for placing on record Annexures A-1
to A-4.

For the reasons mentioned in the application, the same is
allowed and Annexures A-1 to A-4 are taken on record, subject to all just
exceptions.

CRM-M-45695-2017:

This petition has been filed for quashing of FIR No.995 dated
24.11.2015 (Annexure P-1), under Sections 120-B, 406, 420, 467, 468, 471
and 506 of the Indian Penal Code, registered at Police Station Civil Lines,

Hisar, District Hisar and all the consequent proceedings arising therefrom, on the basis of compromise dated 02.11.2017 (Annexure P-2) arrived at between the parties.

Vide order dated 02.12.2017, the trial Court/Illaqa Magistrate was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Judicial Magistrate Ist Class, Hisar, has submitted a consolidated report, vide letter dated 23.01.2018, 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:

“1. The present report is being prepared in pursuance of directions of Hon'ble Punjab & Haryana High Court in CRM-M-45695-2017 vide order dated 02.12.2017 whereby the Illaqa Magistrate was directed to record the statements of the parties of the case and to send report regarding compromise arrived at between the parties. The case in respect of accused is pending before the Court of undersigned. Further, in compliance of the said order, the complainant as well as accused person appeared before the Court today itself.

2. Statement of complainant Brahmanand and separate statement of accused Deepak Kumar have been recorded on solemn affirmation wherein they stated that they have sorted out all the differences and a compromise has been effected between the parties. As per compromise, a petition for quashing of FIR is pending before the Hon'ble Court. They stated that they have suffered these statements voluntarily, without any

pressure or inducement of any kind.

3. *After careful perusal of the statements given on solemn affirmation by the complainant as well as accused vis-a-vis compromise concerning the present case, this Court is convinced that the compromise between the parties has been entered into voluntarily, without any pressure or inducement.*

4. *There are six persons arrayed as accused in said FIR and out of them four is facing trial and other two accused namely Dharambir and Jitender have been declared innocent by the police vide supplementary challan u/s 173(8) Cr.P.C. filed by SHO, Police Station Civil Lines, Hisar. It is **pertinent to mention here that out of among these four accused, a report in compliance of directions of Hon'ble Punjab & Haryana High Court in CRM-M-42438-2017 vide order dated 09.11.2017 has already been submitted before Hon'ble High Court qua accused Sushila Devi w/o Roshan Lal, Roshal Lal s/o Sh. Chotan, Amit Kumar s/o Sh. Roshan Lal.***

5. *It is further submitted that there is no proclaimed offender in said FIR or no proceedings regarding arrest of any accused in said FIR is pending. Therefore, the above report is forwarded for your kind perusal, please.*

- x - x - x -"

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise arrived at between them is genuine, voluntary and without any pressure.

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

Today, neither respondent No. 2 nor his Counsel is present, however, he has made statement before the Chief Judicial Magistrate, Hisar, whereby he has admitted the factum of compromise with the accused, voluntarily and without any undue influence or coercion.

I have heard the learned counsel for the parties and perused the file.

As per the Full Bench judgment of this Court in "**Kulwinder Singh and others Vs. State of Punjab**", 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C., 1973, to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice.

Hon'ble Apex Court in the case of "**Gian Singh Vs. 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 arrived at between the parties, statements of the parties recorded before the Illaqa Magistrate/Trial Court and also report dated 23.01.2018, submitted by the Judicial Magistrate Ist Class, Hisar, 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.

Further, in the light of the abovementioned 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 the petitioner, would be securing the ends of justice.

Accordingly, this petition is allowed. FIR No.995 dated 24.11.2015 (Annexure P-1), under Sections 120-B, 406, 420, 467, 468, 471

and 506 of the Indian Penal Code, registered at Police Station Civil Lines, Hisar, District Hisar and all the consequent proceedings arising therefrom, are quashed qua the petitioner. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the 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 the 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.

01.12.2022

Apurva

(HARSH BUNGER)
JUDGE

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