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

CRM-M-32776-2022 (O&M)
Date of Decision: 02.12.2022

NARENDER KUMAR @ NARENDER AND ORSPetitioners

Versus

STATE OF HARYANA AND OTHERS ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Kartik, Advocate for
Mr. Mr. Baljeet Beniwal, Advocate
for the petitioners.

Mr. Sunit Kumar, Advocate
for respondents No.2 to 4.

Mr. Amrik Narwal, DAG, Haryana.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.283 dated 12.07.2002, under Sections 147, 149, 323, 341 and 506 of Indian Penal Code registered at Police Station Gadhpuri, District Palwal (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 13.07.2022 (Annexure P-2) arrived at between the parties.

Vide order dated 28.07.2022, 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 compliance thereof, the Civil Judge (Junior Division)-cum-Judicial Magistrate First Class, Palwal has submitted its report, vide letter dated 09.08.2022 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:-

“2. Vide order dated 28.07.2022 passed by Hon'ble Punjab & Haryana High Court the Area Magistrate was directed to record compromise (if any) after summoning the petitioners and respondents no. 2 to 4. None appeared on 02.08.2022. Thereafter, notices were issued to parties concerned for 05.08.2022. On 05.08.2022 only the petitioners/accused persons appeared and respondents no. 2 to 4 did not turn up. Notices were issued again to respondents no. 2 to 4 for 08.08.2022. On 08.08.2022 within the time fixed by the Hon'ble Punjab & Haryana High Court for recording statement of both complainants/respondents as well as the accused persons/petitioners. statements were recorded. Thereafter, the parties were questioned generally so as to determine their voluntariness and free will for getting the statements recorded. Thereafter, on being satisfied that the parties are willing to get their statements recorded voluntarily and with the free will and consent and without any coercion or pressure of any kind, the identified statements of both the parties i.e., the complainants/respondents namely Yoginder Singh and Devender Singh and Viond Kumar (other respondents) on one hand and the accused persons namely Narender Kumar, Kuldeep, Jitender Kumar @ Jeetu, Parmod, Vineet (accused persons) on the other hand were recorded by the undersigned. The above-named persons vide their separate statements submitted before the undersigned that they have compromised the matter in dispute without any pressure or coercion. All of them submitted that the said compromise has been arrived at without any pressure or coercion from any side and the said compromise has been entered into between them with their own free will and consent and now they want FIR be quashed. Thereafter, learned counsel for both the parties has identified their signatures and appended their signatures on their statements. Opportunity was also given to the Learned APP for the state to submit anything but opportunity not availed. A separate statement of the IO/ASI namely Sh. Krishan Kumar no.354, PS Gadpuri, Palwal, has also been recorded stating therein that no accused other than the accused persons named above have been included in the FIR/case and no accused persons are declared Proclaimed Offender/person yet. Further, IO stated that till date no charge-sheet has been submitted for the afore-mentioned FIR. Consequently, no charge of prosecution evidence have been got recorded till date!”

3. Report in original regarding the compromise between the parties

are being sent to the Hon'ble High Court for kind perusal and further necessary action as required by the Hon'ble High Court vide order 28.07.2022. The copies regarding the compromise and the statements of both parties placed on the case file for further record. It is also pertinent to mention here that the compromise entered into between the present parties appears to be genuine and authentic and entered into with their free will and consent and without any fear or pressure of any kind from any corner. Moreover, it is also pertinent to mention here that in the present case file there is only five accused persons namely Narender Kumar, Kuldeep, Jitender Kumar @ Jeetu, Parmod, Vineet (accused persons). There is no other complainant except Yoginder Singh, however, the name of respondents Devender Singh and Vinod Kumar surfaced in the FIR itself. Only affected party left is the State to whom opportunity was given to say something but to no avail. ”

A perusal of the said report would show that statements of all 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 was entered into voluntarily and without any pressure.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the parties.

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

This Court has heard the learned counsel for the parties and has perused the file.

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 report dated 09.08.2022 submitted by Civil Judge (Junior Division)-cum-Judicial Magistrate First Class, Palwal 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 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 the petitioners, would be securing the ends of justice.

Accordingly, this petition is allowed. FIR No.283 dated 12.07.2002, under Sections 147, 149, 323, 341 and 506 of Indian Penal Code registered at Police Station Gadhpuri, District Palwal (Annexure P-1) and all the consequent proceedings arising therefrom, are quashed qua the petitioners. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioners 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.

02.12.2022
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No