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

CRM-M-34864-2020

Date of decision:20.04.2022

AMARJEET GAUTAM @ AMARJEET (MINOR)

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

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

Present: Mr. D.S. Randhawa, Advocate  
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab

Mr. Narinder Singh, Advocate  
for respondent No.2.

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

1. Through the instant petition, filed under Section 482 of the Cr.P.C., the petitioner seeks quashing of FIR No.0058, dated 23.02.2020, under Sections 323, 341 of IPC 1860, and, (Section 308 of IPC added later on), lodged at Police Station Division No.6, District Police Commissionerate Ludhiana, and, also of all consequential proceedings arising therefrom, hence on the basis of compromise (Annexure P-2) arrived at between the parties.

2. When the instant petition came up before this Court on 30.10.2020, an order was made upon the learned Magistrate concerned, to make a report to this Court, with respect to the genuineness of the compromise, as also whether any person(s) has/have been nominated as accused, and, as also whether any person has been declared a proclaimed offender, and, that whether challan has been filed. The afore order, makes it apparent that the petitioner had depended, upon, a compromise/settlement, arrived at, in respect of the FIR (supra) with the complainant-respondent No.2.

3. The afore made order by this Court on 30.10.2020, has been complied with by the learned Magistrate concerned, and, the elicited report has been placed on record. A perusal of the report, transmitted to this Court, by the learned Magistrate concerned, reveals that the settlement/compromise, arrived at *inter se* the petitioner, and, the respondent No.2, is a sequel of both, being *ad idem* qua it, besides the compromise/ settlement being a sequel of no pressure or coercion, being exercised upon each other. Moreover, the compromise is compositely drawn, and, thereons exist the signatures of all concerned, in the penal transactions concerned. Therefore, the learned Magistrate has reported that the settlement/compromise, depended upon by the petitioner, for seeking quashing of the FIR (supra), is both voluntary, and, also is free from vices of duress, and, or of compulsion, being exercised upon each other, besides is genuine.

4. Today, the learned counsel appearing for the State of Punjab, on instructions meted to him, has contended before this Court, that the relief, as claimed by the petitioner, in the petition, cannot be granted, as one of the offences constituted against the accused-petitioner, inasmuch as, the one under Section 308 IPC is non-compoundable. He has also drawn the attention of the Court to Annexure R-2, annexure whereof is the report of the Medical Board concerned. A perusal of Annexures R-2 reveals, that though the hereinafter extracted injuries became inflicted, on the person of the victim one, Jatinder Singh. However, it is also revealed therein that, as of now the victim is medically fit.

*"On Clinical Examination Patient Jatinder Singh Conscious, oriented in Time, Place & Person, GCS 15/15. No Focal Neurological deficit at present. Motor – Sensory function of all limbs Normal. No Local Tenderness is occipital region.*

*As per record MLR 1998/19 dated 17.02.2020 at Arora Neuro Centre, Ludhiana Fresh CT Scan R-9072258 dated 09.01.2021 done CMC & H Ludhiana shows No significant Brain Parenchmal injury. A linear undisplaced fracture of Occipital bone is seen on right side extending along Lamboid suture & reaching upto right temporal bone reported by Dr. Jasmeet & Dr. Maninder CMC & H Ludhiana."*

5. Though the entailment of the above extracted injuries, upon the victim, rather are on the vital portions of his body, and, may constrain this Court to not accept the quashing petition, based upon a compromise drawn amongst the concerned. However, the afore constraint, would continue to operate in case the learned Judge concerned, has entered, upon trial of FIR (supra), and, during the course of stepping into the witness box of the aggrieved/complainant, the latter made statements rather supportive of the charge, as becomes drawn against the accused. However, given the making of a statement at the bar by the learned State counsel, that the investigations into the FIR (supra), are yet underway, and, obviously when the learned trial Judge concerned, has not yet entered upon trial thereof. Therefore, when the compromise as drawn amongst the concerned, rather becomes executed, at the pre-trial stage or more emphatically at the stage when investigations are still underway in FIR (supra). In sequel when the complainant/victim, upon stepping into the witness box, may not support the prosecution case, and, when rather the chances of the accused becoming convicted, hence would be rendered bleak, and, remote. As a natural corollary, the afore factum, does concur, with the expostulations of law, made in the hereafter referred verdicts, wherein, a mandate exists, that when a compromise is made/drawn qua a non-compoundable offence rather at the pre-charge stage, thereupon the accused being not put to unnecessary harassment,

and, humiliation of facing trial, especially when in view of the compromise, the victim of the offence may turn hostile.

6. The effect of the afore statement, as made with extreme vehemence by the learned counsel for the petitioner, 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., as vested in the High Court, for quashing of criminal proceedings, as/of FIR or complaint, through recourse being made to the provisions of Section 482 Cr.P.C., rather being distinct and different from the power given to a criminal Court, hence for compounding the relevant offence, being enjoined to become tested vis-a-vis the facts in hand, for apposite application thereons. 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 offences sought to be quashed, through the 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).

7. 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.”*

8. Since the offence one under Section 308 of 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 revered.

Consequently, even if the afore offence is 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 petitioner 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.

9. 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.

10. There is merit in the petition, and, the same is allowed. Consequently, after accepting the report of the learned Magistrate concerned, this Court proceeds to quash the FIR (supra).

11. Consequently, the FIR (supra), and, also all subsequent proceedings arising therefrom, are quashed *qua* the petitioner.

**(SURESHWAR THAKUR)**  
**JUDGE**

**20.04.2022**

*Ithlesh*

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| <b>Whether speaking/reasoned:-</b> | <b>Yes/No</b> |
| <b>Whether reportable:-</b>        | <b>Yes/No</b> |