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

**CRM-M-39575-2022(O&M)
Date of Decision: 10.11.2022**

SUKHWINDER SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Rimple Saini, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Mr. Dinesh Mahajan, Advocate
for the respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.209 dated 12.12.2019 (Annexure P-1) under Section 420 IPC of Indian Penal Code, registered at Police Station City Gurdaspur, District Gurdaspur and all the consequent proceedings arising therefrom, on the basis of compromise dated 20.03.2020 (Annexure P-2) arrived at between the parties.

Vide order dated 01.09.2022, 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 Judicial Magistrate First Class, Gurdaspur has submitted a consolidated report vide letter dated 11.10.2022, which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the genuineness and

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 thereof is reproduced as under:-

- “1. There is only one accused namely Sukhwinder Singh.
2. There is only one complainant/victim namely Gurbaksh Singh and both the complainant/victim and accused are party to compromise.
3. The sole accused namely Sukhwinder Singh has not been declared as a proclaimed offender nor any such proceedings have been initiated or pending before the criminal Court.
4. The present criminal case is at the stage of prosecution evidence.
5. The compromise between the parties is genuine, voluntary and with his free will, without any coercion or undue influence.”

As per the Full Bench judgment of this Court in ***"Kulwinder Singh and others v. State of Punjab"***, reported as 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 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.”

Hon'ble Supreme Court in ***Gold Quest International Private Limited v. State of Tamil Nadu and others-2014(4) RCR (Criminal) 206*** has held that when the disputes are substantially matrimonial in nature, or are civil property disputes with criminal facets, if the parties enter into a settlement, and it becomes clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C., 1973 read with Article 226 of the Constitution of India.

In ***Parbat bhai Aahir @ Parbat bhai Bhimsinh bhai Karmur v. State of Gujarat, 2017(4) R.C.R. (Criminal) 523***, Hon'ble Supreme Court observed as under:

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of section 320 of the Code of Criminal

Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanor. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

In *Shakuntala Sawhney v. 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 11.10.2022 submitted by Judicial Magistrate First Class, Gurdaspur, 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, in the nature of cases as prescribed; 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.209 dated 12.12.2019 (Annexure P-1) under Section 420 IPC of Indian Penal Code, registered at Police Station City Gurdaspur, District Gurdaspur and all the consequent proceedings arising therefrom, are hereby 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 PGI, Poor Patient Welfare Fund, 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 stands disposed of.

10.11.2022
Amandeep

(HARSH BUNGER)
JUDGE

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