

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

CRM-M-49926-2019(O&M)

Date of Decision: 24.11.2022

RAKESH KUMRA AND ORS

....Petitioners

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Deepak Aggarwal, Advocate for the petitioners.

 Mr. Harjinder S. Sidhu, AAG, Punjab.

 Mr. Ashish Bhardwaj, Advocate for respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.89 dated 08.04.2016, under Sections 420, 465, 467, 468 and 471 of Indian Penal Code, 1860 registered at Police Station Kotwali Bathinda (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise (Annexure P-3) arrived at between the parties.

Vide order dated 18.02.2020, 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 Chief Judicial Magistrate, Bathinda has submitted its report, vide letter dated 13.05.2020 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:-

“As per the directions of Hon'ble High Court, the point wise report is as under:

1. In view of the statements of the parties, the compromise effected between the parties appear to be genuine and voluntary. The statements have been suffered by the parties out of their free will and same are not the result of any pressure, undue influence or coercion in any manner and compromise is valid.

2. No person is proclaimed offender in this FIR.”

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.

After perusing the report submitted by the learned trial Court, this Court finds that the matter has been amicably settled between the parties. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

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 13.05.2022 submitted by Chief Judicial Magistrate, Bathinda 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.89 dated 08.04.2016, under Sections 420, 465, 467, 468 and 471 of Indian Penal Code, 1860 registered at Police Station Kotwali Bathinda (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 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 stand disposed of.

24.11.2022
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No