

Date of Decision: 21.02.2023

STATE OF PUNJAB AND OTHERS ...Respondents

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Present : Mr. J.S. Jaidka, Advocate
for the petitioners in CRM-M-3116-2020
and for respondents No.2 and 3 in CRM-M-3081-2020 &
CRM-M-36367-2021.

Mr. Rahul Rana, Advocate
for the petitioners in CRM-M-3081-2020 &
CRM-M-36367-2021 and
for respondents No.2 to 4 in CRM-M-3116-2020.

Mr. Harjinder Singh, A.A.G., Punjab.

HARSH BUNGER, J. (Oral)

This order shall dispose of three petitions i.e. ***CRM-M-3116-2020*** titled as ***Kamal Gujjar @ Kamal and others vs The State of Punjab and others*** seeking quashing of FIR No.208 dated 09.09.2018 registered under Sections 452, 323, 506, 148, 149 of IPC (offence under Sections 3 and 4 of the SC/ST Act, 1989 added later on) at Police Station Meharban, District Ludhiana (Annexure P-1) and all consequential proceedings arising therefrom on the basis of compromise dated 21.11.2019 (Annexure P-1) whereas ***CRM-M-3081-2020*** titled as ***Sukhdev Singh and others vs The State of Punjab and others*** and ***CRM-M-36367-2021*** titled as ***Deepu and another vs State of Punjab and others***, both have been filed for quashing of DDR No.30 dated 30.10.2018 registered under Sections 323, 324 and 506 read with Section 34 of IPC at Police Station Meharban, District Ludhiana and all the consequent proceedings arising therefrom on the basis of compromise dated 21.11.2019 (Annexure P-1 in ***CRM-M-3081-2020***) and compromise dated 25.03.2021 (Annexure P-1 in ***CRM-M-36367-2021***), respectively.

Vide orders dated 24.01.2020, passed in CRM-M-3116-2020 and CRM-M-3081-2020; the parties were directed to appear before Trial Court/Illaq Magistrate for recording their statements with regard to compromise and submit its report.

It appears that in pursuance to order dated 24.01.2020, the parties could not appear before Trial Court/Illaq Magistrate; accordingly, vide order dated 28.10.2021 passed in all the above mentioned 03 cases, the parties were again directed to record their statements regarding respective compromise(s).

It further transpires that statements of all the parties in these petitions were recorded except petitioner No.5 (Gurmeet Singh) and petitioner No.6 (Rajan) in CRM-M-3116-2020. Accordingly, vide order dated 05.01.2023, petitioner No.5 and petitioner No.6 in CRM-M-3116-2020 were directed to appear before Illaq Magistrate/Trial Court for recording their respective statements regarding compromise.

Accordingly, the following reports have been received in these cases:-

1. Report sent by Additional District & Sessions Judge, Ludhiana vide its letter No.267 dated 22.12.2021. Relevant extract of the report received vide letter No.267, dated 22.12.2021 is reproduced as under:-

“Complainant Sukhdev Singh of FIR No.208 dated 09.09.2018 under Sections 452, 323, 506, 148, 149 IPC, Section 3 of the SC/ST Act, PS Meharban, Ludhiana, witnesses Vicky @ Soma, Harbans Kaur and Deepu got recorded their joint statement, which is reproduced as follows :
“Sukhdev Singh got registered the FIR No.208 dated 09.09.2018 under Sections 452, 323, 506. 148, 149 IPC Section 3 of the SC/ST Act, PS Meharban, Ludhiana. We have entered into written compromise with all the accused namely Kamal Guijar, Kala Guijar @ Bakhshish Singh, Jeeto Gurcharan Singh and Munish @ Anis Kumar and with X and Y (names withheld being Juvenile). The compromise is genuine one. The photocopy of the compromise is Ex. C1. We affixed our signature/thumb impression on the orginal compromise. There was no other accused in this FIR.We

have entered into compromise voluntarily with our free will and without any pressure We have no information regarding any other case against the accused pending or decided. We have no objection if the present FIR be canceled or quashed. We will remain bound with the terms and conditions of the compromise Ex. C1 (photocopy). Today we have brought my original Aadhar card, the photocopy of the same are placed on record. Accused Kamal Guijar @ Kamal, Kala Guijar@ Bakshish Singh, Jeeto, Gurcharan Singh and Munish @ Anis Kumar also suffered their joint statement, which is reproduced as follows "We have entered into written compromise with complainant Sukhdev Singh and others in this FIR No.208 dated 09.09.2018 under Sections 452, 323, 506. 148, 149 IPC, Section 3 of the SC/ST Act, PS Meharban, Ludhiana. The compromise is genuine one and the same is reduced into writing. The photocopy of the compromise is Ex.C1. We affixed our signature/thumb impression on the original compromise. We have entered into compromise voluntarily with our free will and without any pressure. No other criminal case is pending against us. We will remain bound with the terms and conditions of the compromise Ex. CI (photocopy). Today we have brought my original Aadhar card, the photocopy of the same are placed on record."

Similarly, qua DDR no. 30 dated 30.10.2018, complainant Kala Guijar @ Bakshish Singh and Jeeto, suffered joint statement, to the effect that "We have entered into written compromise with complainant Sukhdev Singh and others in this FIR No.208 dated 09.09.2018 under Sections 452, 323, 506, 148, 149 IPC, Section 3 of the SC/ST Act, PS Meharban, Ludhiana. The compromise is genuine one and the same is reduced into writing. The photocopy of the compromise is Ex. C1. We affixed our signature/thumb impression on the original compromise. We have entered into compromise voluntarily with our free will and without any pressure. No other criminal case is pending against us. We will remain bound with the terms and conditions of the compromise Ex.C1 (photocopy).Today we have brought my original Aadhar card, the photocopy of the same are placed on record." Accused Bunty @ Naresh Singh, Deepu, Deepa @ Deepak Singh Vicky @ Soma, Sukhdev Singh and Harbans Kaur arrayed in DDR no.30 of 30.10.2018, suffered joint statement, which is reproduced as follows: Accused Raja @ Raj Kumar son of Sukhdev Singh has already died. Copy of his death certificate is ExC2. We have entered into written compromise with Complainant Kala Guijar @ Bakshish Singh and Jeeto in this DDR. The compromise is reduced into writing. The compromise is genuine one. The photocopy of the compromise is Ex. C1. We affixed our signature/thumb impression on the origianl compromise. We have entered

into compromise voluntarily with our free will and without any pressure. No other criminal case is pending against us. We will remain bound with the terms and conditions of the compromise Ex. C1 (photocopy). Today we have brought my original Aadhar card, the photocopy of the same are placed on record.

ASI Joginder Pal, No.1251/LDH, PS Daresi Ludhiana-investigating officer of this case, appeared and suffered statement to the effect that “ I recorded the statement of Sukhdev Singh son of Darshan Singh in FIR No.208 dated 09.09.2018 under Sections 452, 323, 506, 148, 149 IPC and Section 3 of the SC/ST Act, PS Meharban, Ludhiana. In this case, Sukhdev Singh was complainant and Harbans Kaur, Vicky @ Soma, Deepu son of Khushi Ram were victim and the same was filed against Kamal Gujjar, Kala Gujjar @ Bakshish Singh, Jeeto, Gurcharan Singh, Gurmeet Singh, Rajan, Munish. Except the above stated complainant and victims there was no other victim in this FIR. DDR No.30 dated 30.10.2018 was also registered by me in this FIR at the instance of complainant Kala Gujjar @ Bakshish Singh against accused Raja, Bunty, Deepa, Vicky. There was no other victim.

On the basis of record and aforesaid statements, my report containing the information, as sought by the Hon'ble High Court, is as under:

“1. In the present FIR No.208 dated 09.09.2018 under Sections 452, 323, 506, 148, 149 IPC, Section 3 of the SC/ST Act, PS Meharban, Ludhiana, accused namely Kamal Gujjar, Kala Gujjar @ Bakshish Singh, Jeeto, Gurcharan Singh, Gurmeet Singh, Rajan and Munish @Anis Kumar were arrayed as accused. Challan was filed only against accused Jeeto, Kamal and Gurbachan Singh.

2. No accused is proclaimed offender in this case.

3. From the statements of the parties, this Court is satisfied that the compromise effected between them, is genuine, voluntary and without any coercion or undue influence.

4. As per record of this case, coupled with the statements of accused and the investigating officer recorded in this case, the accused are not involved in any other FIR.

5. As per statement of the investigating officer, in this case, Sukhdev Singh was complainant and Harbans Kaur, Vicky @ Soma, Deepu son of Khushi Ram were victim and the same was filed against Kamal Gujjar, Kala Gujjar @ Bakshish Singh, Jeeto, Gurcharan Singh,

Gurmeet Singh, Rajan, Munish. Except the above stated complainant and victims there was no other victim in this FIR. As per the investigating officer, DDR No.30 dated 30.10.2018 was also registered by him in this FIR at the instance of complainant Kala Gujjar @ Bakshish Singh against accused Raja, Bunty, Deepa, Vicky. There was no other victim.”

2. Report sent by Principle Magistrate, Juvenile Justice Board, Ludhiana vide its letter No.36 dated 21.01.2023. Relevant extract of the report received vide letter No.36, dated 21.01.2023 is reproduced as under:-

“Accordingly, the statements of the complainant/respondent Sukhdev Singh S/o Darshan Lal, R/o St. no. 1, Bhagwant Vihar, Colony. Kailash Nagar Road, Village Bajra, District Ludhiana, victims/respondents Harbans Kaur W/o Sukhdev Singh and Viki @ Soma S/o Sukhdev Singh, both R/o Bhagwant Vihar Colony, Kailash Nagar Road, Village Bajra. District Ludhiana and petitioner/juveniles Gurmeet Singh S/o Kulwinder Singh, R/o St. no. 2, Bhagwant Vihar, Village Bajra, District Ludhiana and Rajan S/o Kulwinder Singh @ Kulwinder Pal, R/o Village Jhandupur, Malewal Bhatian, District Shaheed Bhagat Singh Nagar presently residing at Bhagwant Vihar Colony, Village Bajra, Meharban, District Ludhiana (statement of Rajan through his father Kulwinder Singh @ Kulwinder Pal), have been recorded. In their separate statements, both the parties admitted the genuineness of the compromise arising between them. So, from the statements of the parties, it appears to the court that the parties have been compromised the matter out of their free Will, voluntarily, without any sort of pressure, coercion and fear.

As per statement of the IO, the FIR has been registered against Juveniles Gurmeet Singh and Rajan and against other co-accused persons namely Kamal Gujjar @ Kamal aged about 22 years S/o Karam Chand, R/o # 8. Village Bhidial, District Hoshiarpur, Kala Gujjar @ Bakshish Singha aged about 24 years S/o Karam Chand, R/o # 157, Village Dangori Bhidial. District Hoshiarpur, Jeeto aged 48 years W/o Karam Chand, R/o # 8, Village Bhidial, District

Hoshiarpur, Gurcharan Singh aged 41 years S/o Dugra Dass, R/o #0, St. no. 1, Bhagwant Vihar Colony, Vilalge Bajra Meharban Ludhiana and Munish @ Anis Kumar S/o Tiwari @ Bharat Bhushan Tiwari. R/o Bhagwant Vihar Colony, Village Bajra Meharban, District Ludhiana and no PO proceedings are pending against the above said persons.

As per statement of IO, challan has been presented against the juveniles and other co-accused persons except accused Munish @ Anis Kumar and the above said persons except Munish @ Anis Kumar have involved during investigation and the case against the juveniles is pending for awaiting further orders of Hon'ble Punjab and Haryana High Court.

Further, it is submitted that except the present case, no other case is pending against the juveniles.

It is further submitted that there is one complainant in the present FIR i.e. Sukhdev Singh S/o Darshan Lal and three victims i.e. Harbans Kaur W/o Sukhdev Singh, Viki @ Soma S/o Sukhdev Singh and Deepu S/o Khushi Ram.”

Learned counsel for respondents in all the petitions have again reiterated that the matter has been settled and the said compromise is in the interest of all the concerned persons and would help in bringing out peace and amity between the parties.

Learned State counsel has also not raised any serious dispute regarding quashing of FIR No.208 dated 09.09.2018 and DDR No.30 dated 30.10.2018.

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

The broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of

'Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus

State of Gujarat and another” (2017) 9 SCC 641', the same are extracted as under:

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

16.1 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;

16.2 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.

16.3 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;

16.4 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;

16.5 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;

16.6 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;

16.7 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;

16.8 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;

16.9 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

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 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 misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

Still further, the Hon'ble Apex Court in ***Ramawatar v. State of Madhya Pradesh 2021(4) RCR (Criminal) 555***, considered the following question:

“whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?”

While answering the abovesaid question, the Hon'ble Apex Court quashed the criminal proceedings and also set aside the judgments of conviction and sentence passed by the Trial Court as well as the High Court of Madhya Pradesh, by observing as under:-

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the

depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C..."

Having appraised the afore-stated parameters and weighing upon the peculiar facts and circumstances of these cases, this court is inclined to invoke powers under Section 482 Cr.P.C. to quash the criminal proceedings for the following reasons:

- i. The very purpose behind Section 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is to deter caste-based insults and intimidations when they are used with the

intention of demeaning a victim on account of he/she belonging to

the Scheduled Caste/Scheduled Tribe community.

ii. The alleged offence in question does not appear to exhibit the mental depravity of the petitioners.

iii. The alleged FIR dates back to August, 2018 whereas compromise(s) were effected on 21.11.2019 and 25.03.2021. There is nothing on record to indicate that either before or after the purported compromise, any untoward incident transpired between the parties. The State counsel has also not pointed out any other occurrence that would lead this Court to believe that the petitioners are either the repeat offenders or are unremorseful about what transpired.

iv. The petitioners do not suffer any criminal antecedents and are not involved in any other case.

v. The complainants and victims have, on their own free will and without any compulsion, entered into a compromise and wish to drop the present criminal proceedings against each other.

vi. The complainants and victims are not likely to support the case of prosecution and continuation of the proceedings is likely to be a waste of judicial time.

vii. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.

viii. The grievances having been resolved, no interest of justice would be served by forcing the petitioners in these cases to undergo the rigours of criminal proceedings.

ix. The petitioners and the complainant as well as victim are residents of the same area/town and are living in vicinity to each other. This Court has no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to advance peace and harmony, it will be prudent to effectuate the present settlement.

x. The cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties.

For the reasons stated above, all these petitions are allowed and the criminal proceedings in the aforesaid case FIR No.208 dated 09.09.2018 registered under Sections 452, 323, 506, 148, 149 of IPC (offence under Sections 3 and 4 of the SC/ST Act, 1989 added later on) and DDR No.30 dated 30.10.2018 registered under Sections 323, 324 and 506 read with Section 34 of IPC, at Police Station Meharban, District Ludhiana and all the consequent proceedings arising therefrom, are quashed qua the petitioners in these cases. However, the same would be subject to payment of costs of Rs.10,000/- (in each case) to be deposited by the petitioners with the following accounts:

**Account Name :- Punjab and Haryana High Court Bar Association
Lawyers Family Welfare Fund.**

Account Number :- 41564846387

Bank Name:- State Bank of India, High Court Branch.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

Disposed of in the aforesaid terms.

All pending application(s), if any, shall stand disposed of.

A photocopy of this order be placed on the files of other
connected cases.

21.02.2023
Amandeep

(HARSH BUNGER)
JUDGE

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