

274-2

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

**CRM-M-3977-2023 (O&M)
Date of decision : 04.12.2023**

Ami Chand and another

... Petitioner(s)

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Manju Goyal, Advocate,
for the petitioners.

Mr. C.L. Pawar, Addl.A.G., Punjab,
assisted by SI Tasveer Singh.

Mr. R.K. Singla, Advocate,
for the respondent Nos.2 to 5.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of General Diary Entry No.22 dated 01.04.2019 (P-2), in FIR No.46 dated 07.04.2019 (P-1), under Sections, 323, 324, 506 read with Section 34 of the Indian Penal Code, 1860 (for short, '*the IPC*'), registered at Police Station, Kotwali Bathinda, along with all consequential proceedings arising therefrom, on the basis of compromise dated 22.08.2022 (P-3), entered into between the parties i.e. petitioners as well as respondent Nos.2 to 5.

2. Allegations are that the petitioners caused injuries and criminally intimidated the complainants.

3. A Co-ordinate Bench, while issuing notice of motion on 25.01.2023, passed the following order:-

“The petitioners have filed this petition under Section 482 Cr.P.C. for quashing of FIR No.46 dated 7.4.2019 (Annexure P-1) on the basis of GD No.22 dated 1.4.2019 (Annexure P-2) along with subsequent proceedings arising out therefrom on the basis of compromise (Annexure P-3).

Notice of motion.

Mr. Tarun Singla, Advocate puts in appearance on behalf of respondents No.2 to 5 and has filed power of attorney, which is ordered to be taken on record and has further stated that he has no objection if this petition is allowed.

On the asking of this Court, Mr. Chaman Lal Pawar, Addl. A.G. accepts notice on behalf of the State.

*In the light of the no objection on behalf of counsel for respondent Nos.2 to 5, the parties are directed to appear before the learned trial court/Illaq Magistrate on **20.2.2023** or any other date convenient to the Court and to get record their statements regarding compromise and after recording their statements, learned trial Court/Illaq Magistrate, is directed to send the same along with its report regarding the genuineness of compromise on or before the date fixed in the instant petition specifically with regard to the following facts : -*

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Stage of the trial/proceedings.*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 5. Total number of victims and their names.*

*To come up on **15.5.2023** for awaiting the report.*

The State counsel is also directed to verify about the factum of compromise by that date.

A copy of this order be sent to the learned trial Court/Illaq Magistrate, through electronic mode, for compliance.”

4. In terms of aforesaid order, statements of both the parties were recorded and a report dated 04.07.2023 has been submitted in this regard by learned Chief Judicial Magistrate, Bathinda. The operative part of the same reads as under:-

“From the statement of parties that appeared in this petition, the compromise appears to be genuine, voluntary and without any pressure or coercion or undue influence.”

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no objection by either of the parties against the compromise.

6. Learned State Counsel, on instructions from the police officer present in the Court, also submitted that they have no objection in case the aforesaid FIR as well as consequential proceedings are quashed on the basis of the compromise effected between the parties.

7. Hon'ble the Supreme Court in **Gian Singh v. State of Punjab, (2012) 10 SCC 303**, has held as under:-

“61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not affect public peace or tranquility. Thus, quashing of the FIR in question along with consequential proceedings, on the basis of compromise would bring peace and harmony to secure the ends of justice.

9. Consequently, present petition is allowed; aforesaid General Diary Entry in the FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioners. However, as a deterrence for the future, petitioners are burdened with costs of Rs. 10,000/- (Rs.5,000/- each).

Costs be deposited with Punjab and Haryana High Court Bar Association,
Chandigarh Lawyers Family Welfare Fund.

04.12.2023
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(MAHABIR SINGH SINDHU)
JUDGE

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