

CRM-M-6929-2022 along with
CRM-M-8597-2022

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257 (2 Cases)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Date of Decision: 11.04.2023

(I) CRM-M-6929-2022

Karan and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

(II) CRM-M-8597-2022

Harpal Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Simranjit Singh, Advocate
for the petitioners (in CRM-M-6929-2022)
and for respondents No.2 to 6 (in CRM-M-8597-2022).

Mr. Vinay Kumar, Advocate
for the petitioners (in CRM-M-8597-2022)
and for respondents No.2 and 3 (in CRM-M-6929-2022).

Mr. Aditya Kapoor, AAG, Punjab
for respondent No.1/State.

HARSH BUNGER J. (ORAL)

This order shall dispose of two petitions, i.e.

(i) CRM-M-6929-2022, filed for quashing of FIR No.408 dated 10.10.2016

(Annexure P-1), registered under Sections 452, 323 of the Indian Penal

Code, 1860, (Section 325 and 201 IPC added later on) (Sections 148 and 149 IPC were deleted) registered at Police Station A Division, Amritsar, District Amritsar and all the consequential proceedings arising from the FIR on the basis of compromise deed dated 04.01.2022 (Annexure P-2) arrived at between the parties; and
(ii) CRM-M-8597-2022, filed for quashing of cross case, being DDR No.31 dated 11.10.2016, under Sections 326, 324, 323, 148, 149 of the Indian Penal Code, 1860 in case FIR No. 408 dated 10.10.2016, under Sections 452, 325, 323, 201 and 34 of the Indian Penal Code, 1860, at Police Station A Division, District Amritsar and all the consequent proceedings arising out of the said DDR, on the basis of compromise deed dated 27.01.2022 (Annexure P-2) arrived at between the parties.

Vide order dated 04.03.2022 passed in CRM-M-6929-2022 and vide order dated 02.03.2022 passed in CRM-M-8597-2022, the Illaqa Magistrate/trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the respective compromise deeds.

In compliance thereof, the Judicial Magistrate Ist Class, Amritsar has submitted two separate reports, vide letter bearing No.505 dated 30.04.2022 in CRM-M-6929-2022 and letter bearing No.504 dated 30.04.2022 in CRM-M-8597-2022 which indicate that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise deeds. 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 report received in CRM-M-6929-2022

“Sir, in compliance with the order passed in CRM-M-6929- 2022, Complainant Kanwaljit Singh wife of Jaspal Singh, victim Mukhtar Singh son of Charan Singh as well as accused/petitioners Karan son of Jaspal Singh, Saurav @ Saurav Singh son of Jaspal Singh, Kuldeep Kaur wife of Jaspal Singh and Jaspal Singh son of Charan Singh, appeared in the court and all of them got recorded their individuals statements with regard to compromise effected between them. ASI Baljinder Singh, Investigating Officer, appeared on behalf of State and got recorded his statement that complainant Kanwaljit Kaur wife of Jaspal Singh got registered the present case against accused Karan, Saurav son of Jaspal Singh, Kuldeep Kaur wife of Jaspal Singh and Jaspal Singh son of Charan Singh (petitioners). Mukhtar Singh son of Charan Singh was victim/injured in this case. Investigating Officer further stated that accused have never been declared proclaimed offender(s), nor any PO proceedings are pending against them. On the basis of the statements suffered by the parties in the court, it appears that the compromise between Complainant Kanwaljit Kaur, victim Mukhtar Singh as well as accused/petitioners Karan, Saurav son of Jaspal Singh, Kuldeep Kaur wife of Jaspal Singh and Jaspal Singh son of Charan Singh, is genuine, voluntary without any threat or coercion. Accused/petitioners have never been declared proclaimed offender(s), nor any PO proceedings are pending against them. As per Investigating Officer, the above said accused persons are not involved in any other case. The present case has been pending in the court of undersigned for 27.04.2022 for consideration on application for discharge of accused. The parties were identified by the learned counsel for the parties.

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Relevant extract of the said report received in CRM-M-8597-2022 is reproduced as under:-

“Sir, in compliance with the order passed in CRM-M-8597- 2022, Complainant Rashpal Singh son of Dharam Singh, Victim Harcharan Singh, Sourav, Kuldeep Kaur and Jaspal Singh as

well as accused petitioners Harpal Singh. Jaspal Singh son of Harbans Singh, Manjit Singh, Mukhtar Singh, Harjit Kaur, Kawaljit Kaur, Surjit Kaur, Rashpal Singh son of Charan Singh, Jasbir Kaur, appeared in the court and all of them got recorded their individuals statements with regard to compromise effected between them as per compromise deed Ex.C1. The above said DDR was registered against 10 accused persons, out of which Harbans Singh son of Jeevan Singh has been died, as is clear from the copy of his death certificate produced by petitioners. Statement of ASI Baljinder Singh, Investigating Officer has also been recorded, as per him, complainant Rashpal Singh son of Dharam Singh got registered the present case i.e. DDR no.31 dated 11.10.2016, registered under Sections 326, 324, 323, 148, 149 IPC at police station A-Division, in case FIR no.408 dated 10.10.2016, registered under sections 452, 325, 323, 201, 34 IPC at police station A-Division, Amritsar, against ten accused namely Harpal Singh, Jaspal Singh son of Harbans Singh, Manjit Singh, Mukhtar Singh, Harjit Kaur, Kawaljit Kaur, Surjit Kaur, Rashpal Singh son of Charan Singh, Jasbir Kaur, who are petitioners and Harbans Singh son of Jeewan Singh (since deceased). Neither the above said accused have been declared as proclaimed offender(s), nor any PO proceedings are pending against them. The above said accused persons are not involved in any other case. On the basis of the statements suffered by the parties in the court, it appears that the compromise between Complainant Rashpal Singh son of Dharam Singh, Victims Harcharan Singh, Kuldeep Kaur, Saurav and Jaspal Singh son of Charan Singh as well as accused/petitioners Harpal Singh, Jaspal Singh son of Harbans Singh, Manjit Singh, Mukhtar Singh, Harjit Kaur, Kawaljit Kaur, Surjit Kaur, Rashpal Singh son of Charan Singh, Jasbir Kaur is genuine, voluntary without any threat or coercion. Accused/petitioners have never been declared proclaimed offender(s), nor any PO proceedings are pending against them. As per Investigating Officer, the above said accused persons are not involved in any other case. The present case has been pending in the court of undersigned for 27.04.2022 for consideration on charge. The

parties were identified by the learned counsel for the parties.

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A perusal of the said reports shows 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 No.408 dated 10.10.2016 and DDR No.31 dated 11.10.2016 in FIR No. 408 dated 10.10.2016 are quashed. They have further stated that the compromise arrived at between them is genuine, voluntary and without any pressure.

Learned State counsel does not raise any serious dispute regarding quashing of FIR No.408 dated 10.10.2016 and DDR No.31 dated 11.10.2016.

Learned counsel for respondents No.2 and 3 (in CRM-M-6929-2022) and for respondents No.2 to 6 (in CRM-M-8597-2022) have 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.

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

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.

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.”

Still further, 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.”

Having appraised the aforestated parameters and weighing upon the peculiar facts and circumstances of the instant 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 alleged occurrence *prima facie* appears to be a result of misunderstanding between the parties over a plot of land, which resulted in injuries to parties on both sides, accordingly a version and cross version were recorded by way of FIR No.408, dated 10.10.2016 and DDR No.31, dated 11.10.2016.
- ii. The petitioners in both petitions do not suffer any criminal antecedents and are not involved in any other case.
- iii. The FIR and DDR in these cases date back to the year 2016 and the compromise was effected between the parties in 2022. There is nothing on record to show that either before or after the purported compromise,

any untoward incident transpired between the parties.

- iv. The parties are related to each other and they on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s).
- v. The complainants are not likely to support the case of the prosecution and continuation of the proceedings is likely to be a waste of judicial time.
- vi. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.
- vii. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigours of criminal proceedings.
- viii. Since petitioners and complainant are residents of the same area/town, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.
- ix. 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, the present petitions are allowed and the criminal proceedings in the aforesaid FIR No.408 dated 10.10.2016

(Annexure P-1), registered under Sections 452, 323 of the Indian Penal Code, 1860, (Section 325 and 201 IPC added later on) (Sections 148 and 149 IPC were deleted), and DDR No.31 dated 11.10.2016 in case FIR No. 408 dated 10.10.2016, under Sections 326, 324, 323, 148, 149 of the Indian Penal Code, 1860, registered at Police Station A Division, District Amritsar and all the consequent proceedings arising therefrom, on the basis of compromise deed arrived at between the parties. However, the same would be subject to payment of costs of Rs.20,000/- (each case) to be deposited by the petitioners with the **“Poor Patients' Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

Disposed of in the aforesaid terms.

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

Photocopy of this order be placed on the file of above mentioned connected case.

11.04.2023
Himani

(HARSH BUNGER)
JUDGE

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| 1. Whether speaking/reasoned : | Yes/No |
| 2. Whether reportable : | Yes/No |