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

**CRM-M-7297-2019
Date of Decision: 05.01.2023**

SHAMO BAI AND ANOTHER

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Vineet Sachdeva, Advocate for
Mr. Raman Goklaney, Advocate
for the petitioners.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Mr. Rahul Arora, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.24 dated 23.03.2016, under Sections 406, 420, 465, 467, 468 and 471 of Indian Penal Code registered at Police Station City Fazilka, District Fazilka (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 05.11.2018 (Annexure P-2) arrived at between the parties.

Vide order dated 20.02.2019, 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, Fazilka has submitted its report, vide letter dated 15.06.2019 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:-

“Complainant Shabbe Bai wife of Mohar Singh alias Mahar Singh, resident of village Ghurka, Tehsil and District Fazilka stated that FIR No.24 dated 23.3.2016 Under Section 406, 420, 465, 467, 468, 471 of Indian Penal Code was registered against Shamo Bai wife of Mangal Singh, resident of village Ghurka, Tehsil and District Fazilka and Joginder Singh son of Gulzar Singh, resident of village Natha Singh, Tehsil Jalalabad District Fazilka was registered on the basis of her statement. Now with the intervention of respectable she compromised with the accused persons with her own free will and without any kind of pressure, threat or undue influence. The compromise is effected for betterment, brotherhood and society. She has no objection if the Hon'ble Punjab & Haryana High Court quashed the FIR against all the accused as per compromise.

On the other side accused/petitioner Shamo Bai wife of Mangal Singh, resident of village Ghurka, Tehsil and District Fazilka and Joginder Singh son of Gulzar Singh, resident of village Natha, Singh, Tehsil Jalalabad District Fazilka made separate statement that present FIR was registered against them on the statement of complainant Shaba Bai. Now with the intervention of respectable they have compromised with the

complainant with their own free will and without any kind of pressure, threat or undue influence. The compromise is for their betterment, brotherhood and society.

After recording the statement of complainant and accused/petitioners and orally inquired from them this Court is of the view that the compromise is voluntarily, genuine and without any kind of coercion or undue influence.”

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.

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

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 15.06.2019 submitted by Chief Judicial Magistrate, Fazilka 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.24 dated

23.03.2016, under Sections 406, 420, 465, 467, 468 and 471 of Indian Penal

Code registered at Police Station City Fazilka, District Fazilka (Annexure P-1) and all the consequent proceedings arising therefrom, are quashed qua the petitioners on the basis of compromise dated 05.11.2018 (Annexure P-2) entered into between the parties. However, the same would be subject to payment of costs of Rs.10,000/- 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.

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.

05.01.2023

Himani

**(HARSH BUNGER)
JUDGE**

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No