

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

260-1

CRM-M No.10500 of 2023

Date of Decision : 28.07.2023

Birender Singh Dagar and Another

....Petitioners

VERSUS

State of Haryana and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. H.K. Aurora, Advocate for the petitioners.

Ms. Priyanka Sadar, AAG Haryana for respondent No.1.

Ms. Kulwinder Kaur, Advocate for

Mr. Mandeep Singh Khillan, Advocate for respondent No.2.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.676 dated 18.09.2016 registered under Sections 323, 506 and 34 of the Indian Penal Code, 1860 at Police Station Civil Lines Rohtak, District Rohtak and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 12.12.2022 (Annexure P-2).

2. On 20.03.2023 the following order was passed :

“CRM-11032-2023

The present application is for preponement of the main case as the date for recording of the statement has not been fixed, although in the connected case between the same parties qua which also the same compromise has been effected, was

taken up on 27.02.2023 i.e. CRM-M-9742-2023, and the dates have already been fixed.

Application is allowed as prayed for and the main case is taken on Board today itself.

CRM-M-10500-2023

The petitioners have filed the present petition seeking quashing of FIR No.676, dated 18.09.2016, under Sections 323,506 and 34 of IPC, registered at Police Station Civil Lines, Rohtak (Annexure P-1) and all other proceedings arising therefrom on the basis of the compromise dated 12.12.2022 (Annexure P-3).

Notice of motion.

On asking of the Court, Mr. Gaurav Gurcharan Singh Rai, , accepts notice on behalf of respondent No.1 and Ms. Kulwinder Kaur, Advocate accepts notice and filed her Memorandum of Appearance on behalf of respondent No.2, which is taken on record and admits the factum of compromise between the parties.

Learned counsel for respondent No.2 is directed to file his Vakalatnama within three working days from today.

Adjourned to 28.07.2023.

In the meanwhile, both the parties are directed to appear before the concerned Illaqa/Duty Magistrate on 15.04.2023 for recording their statements, who shall record their respective statements with regard to the genuineness/correctness of the compromise and that the compromise is not the result of any

fraud or misrepresentation and is the result of free will of the parties. It would also be verified that besides the accused (petitioners) mentioned in the petition, there is no other accused in the FIR and the parties are not involved or declared proclaimed offender in any other criminal case.

The Illaqa Magistrate/Duty Magistrate shall send his report through learned Sessions Judge concerned on or before the date fixed before this Court.”

3. Pursuant to the order dated 20.03.2023, a report dated 19.04.2023 of the Chief Judicial Magistrate, Rohtak has been received by this Court wherein it has been stated that the statements of the parties have been recorded and the parties have stated that they have compromised the matter voluntarily without any threat, pressure, undue influence or fraud and that the complainant/respondent No.2 has no objection to the quashing of the present FIR. Statements of the parties have also been appended with the report.

4. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]** 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-dominatingly 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 personal 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.”

5. Learned counsel for the petitioners has also referred to the law laid down by this Court in **Kulwinder Singh & Ors. vs. State of Punjab & Anr. [2007 (3) RCR (Criminal) 1052]** wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise,

this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

6. In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

7. Resultantly, FIR No.676 dated 18.09.2016 registered under Sections 323, 506 and 34 of the Indian Penal Code, 1860 at Police Station Civil Lines Rohtak, District Rohtak is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 12.12.2022 (Annexure P-2).

8. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

28.07.2023

jk

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO