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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-9477-2020 (O&M)
Date of decision : 07.08.2023

Bahader Singh & Ors.

... Petitioner(s)

Versus

State of Punjab & Anr.

... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Amaninder Preet, Advocate for the petitioners.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

Mr. Kamaljeet Singh, 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.0088 dated 17.10.2019 registered under Sections 354, 354-B, 379-B, 323, 149 of Indian Penal Code, 1860 at Police Station Bhadaur, District Barnala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of a compromise dated 11.12.2019 (Annexure P-2).

2. Qua petitioner No.3, the present petition was dismissed as withdrawn vide order dated 20.07.2022 in view of the fact that petitioner No.3 was found to be innocent.

3. On 20.07.2022 the following order was passed :

“Instant petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No.0088 dated 17.10.2019 registered under Sections 354, 354-B, 379-B, 323, 149 of Indian Penal Code, 1860 at Police Station Bhadaur, District Barnala (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of compromise dated 11.12.2019 (Annexure P-2).

Counsel for the petitioners submits that FIR (Annexure P-1) registered by Manjeet Kaur-respondent No.2 is on account of some misunderstanding between the parties, who are residents of adjoining villages. He submits that allegation of snatching is false. It is his case that offence under Section 354-B IPC is not attracted as it is evident from an examination of the allegation in the FIR that clothes of the complainant got torn in a scuffle. Counsel submits that dispute has been amicably settled by virtue of compromise (Annexure P-2).

Upon instructions from ASI Baljit Singh, State counsel submits that challan has been presented against petitioners No.1, 2 & 4 and petitioner No.3 was found to be innocent. He has further instructions to state that charge has been framed, but no prosecution witness has been examined. As per his instructions, petitioner No.4 is involved in some other criminal cases. He seeks and is granted time to bring the details on the record.

Counsel representing the complainant-respondent No.2 has admitted the factum of compromise.

Faced with the stand taken by the State, counsel for the petitioners seeks and is granted permission to withdraw the petition qua petitioner No.3.

Dismissed as withdrawn qua petitioner No.3.

The remaining parties and Investigating Officer are directed to appear before the Trial Court/Area Magistrate on 27.07.2022 or on any day thereafter, as ordered by the Magistrate for getting their statements recorded with regard to the compromise. The Trial Court/Area Magistrate shall submit a report specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*
- 5. whether any other criminal case is pending against the accused.*

Report of Trial Court/Area Magistrate be awaited for 12.12.2022.”

4. Pursuant to the order dated 20.07.2022, a report dated 06.12.2022 of the Judicial Magistrate 1st Class, Barnala 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. In the said report, qua petitioner No.4 – Pal Khan @ Pala Khan, it has been stated that there are 05 cases pending against him and the said report itself has mentioned that out of 05 cases, petitioner No.4 stood acquitted in 04 cases and in 01 case, he has been convicted. However, as per the learned counsel for the petitioner his sentence has already been suspended in the said case vide order dated 07.02.2017 passed in CRM-36548-2016 in CRA-S-4166-SB-2016.

5. Learned counsel for respondent No.2 has contended that the parties have since compromised the matter and he has no objection if the present FIR is quashed.

6. 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.”

7. 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.

8. 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.

9. Resultantly, FIR No.0088 dated 17.10.2019 registered under Sections 354, 354-B, 379-B, 323, 149 of IPC at Police Station Bhadaur, District Barnala (Annexure P-1) is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 11.12.2019 (Annexure P-2).

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

07.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

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