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

CRM-M-8999-2020

Date of Decision: 09.02.2023

MALAK SINGH AND ORS

....Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Ramandeep, Advocate
for the petitioners.

Mr. Harjinder S. Sidhu, AAG, Punjab.

HARSH BUNGER, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of the criminal complaint bearing No.69/2015 dated 11.09.2015 (Annexure P-1), under Sections 323, 324, 506, 34 of Indian Penal Code and Section 3 (1) (i) (ii) (iii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and the summoning order dated 14.01.2016 (Annexure P-2) passed by Judicial Magistrate Ist Class, Samana, District Patiala and all the consequent proceedings arising therefrom, on the basis of compromise dated 31.01.2020 (Annexure P-3) arrived at between the parties.

Vide order dated 02.03.2020 passed by a Co-ordinate Bench of this Court, 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 Additional District and Sessions Judge, Patiala has submitted a consolidated report, vide letter dated 10.07.2020 which indicates that the parties appeared before the Additional District and Sessions Judge, Patiala 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 with free will and consent. Relevant extract of the said report is reproduced as under:-

“4. Complainant Gurdev Singh has got recorded his statement to the effect that he had moved a complaint under section 323,324,506,34 IPC and section 3 (1) (ii) and (iii) of SC/ST Act. The said complaint was presented before the learned Ilaqa Magistrate in which accused Malak Singh son of Suba Singh, Bhupinder Singh son of Shubegh Singh, Komalpreet Kaur alias Simarjit Maur wife of Bhupinder Singh, Gurwinder Singh son of Balkar Singh, Kulwinder kaur wife of Balwinder Singh, all residents of village Saundewal alias Rajgarh, Teshil Samana, Police Station Ghagga, District Patiala were summoned to face trial under section 323,506,34 of IPC and Section 3 (1) (ii) and (iii) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. Complainant further stated that now with the intervention of respectables of the village and in order to maintain peace and harmony in the village, compromise has been effected with above said accused. The said compromise was reduced into writing vide compromise deed dated 31.01.2020, which is ExC1 and same bears his signatures. The said compromise is without any pressure, coercion, pressure and undue influence. Complainant has no objection if the above said complaint is quashed in its entirety. There is no other litigation pending against the aforesaid accused persons. Accused Kulwinder Kaur wife of Balwinder Singh, resident of village Saundewal alias Rajgarh, Teshil Samana, Police Station

Ghagga, District Patiala has been declared proclaimed offender in this case vide order dated 04.05.2019.

6. Mithu Singh and Kala Singh, witnesses to the occurrence. also made their statements to the similar effect.

7. To similar effect are the statements made by accused Malak Singh, Bhupinder Singh, Komalpreet Kaur and Gurwinder Singh. They have also deposed about the voluntary nature of compromise being without any pressure, coercion or undue influence.

8. From the statements made by the parties in the Court, the matter is found to have been compromised between the parties with the intervention of respectables. The statements made by the parties in the Court appear to be genuine and not the result of any pressure or coercion in any manner.

9. Accused Kulwinder Kaur wife of Balwinder Singh, has been declared as proclaimed offender vide order dated 04.05.2019 passed by the learned Ilaqa Magistrate.”

A perusal of the said report shows that vide complaint No.69/2015, dated 11.09.2015 out of 5 accused, accused-Kulwinder Kaur wife of Balwinder Singh, has been declared as proclaimed offender vide order dated 04.05.2019 passed by learned Ilaqa Magistrate.

The present petition has been filed by 4 accused persons in the aforesaid complaint. As per report, the compromise arrived at between them is genuine, voluntary and without any pressure.

Learned counsel for respondent No.2 has reiterated that the matter has been settled between petitioners and respondent No.2 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.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR in question, qua petitioners.

I have heard the learned counsel for the parties and have

perused the file.

The issue regarding quashing of FIR against one or few of many accused and allowing the proceedings to continue against the other co-accused was subject matter before various Courts on different occasions and considering totality of facts and circumstances, the Courts have permitted quashing of FIR qua some of accused and at the same time, the proceedings have been allowed to continue against other co-accused. Some of the decisions in this regard are as follows:

In “*Jayrajsinh Digvijay Singh Rana v. State of Gujarat*”, **2012(12) SCC 401**; Hon'ble Apex Court quashed the FIR where the compromise was effected by one of the accused with the complainant, by observing as under:

“...In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the

prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.

10. In the light of the principles mentioned above, inasmuch as Respondent No. 2-the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice under Article 142 of the Constitution, we accept the terms of settlement insofar as the appellant herein (Accused No. 3) is concerned.

11. In view of the same, we quash and set aside the impugned FIR No. 45/2011 registered with Sanand Police Station, Ahmedabad for offences punishable under Sections 467, 468, 471, 420 and 120B of Indian Penal Code insofar as the appellant (Accused No. 3) is concerned. The appeal is allowed to the extent mentioned above...”

Partial or part quashing of FIR only qua the accused/offender with whom the complainant has compromised has also been upheld in **“Lovely Salhotra and Anr. v. State, NCT of Delhi”, 2017 (3) R.C.R. (Criminal) 85**, vide judgment dated 10.04.2017, passed by the Hon'ble Apex Court; wherein it was observed to the effect that it could not be held that the FIR cannot be quashed in part where no offence was made out against the accused who sought quashing of the FIR. The observations in paragraphs 3 and 6 of the said verdict of the Apex Court are to the following effect:

"3. We have taken into account the fact of the matter in question as it appears to us that no cognizable offence is made out against the appellant-herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants-herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No. 2-herein only on the ground that the investigation against co-

accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos.2, 3, 4 and 6 prima facie.

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6. *Accordingly, we set aside the order of the High Court and quash the FIR qua the appellants-herein."*

In "**Vijay Kumar Gupta v. State, Government of NCT of Delhi**" in **Crl.M.C. No.2289/2013**, the Delhi High Court made the following observations in paragraph No. 7 thereof:

"7. Looking into the facts and circumstances of the case and the fact that the petitioners have paid the loan/settlement amount to the Respondent No. 2 and nothing remains to be adjudicated further, to remove the hurdle in the personal life of the present petitioners for leading better and peaceful life and to meet the ends of justice, I deem it appropriate to quash the FIR No. 107/2003, under Section 406/420/468/471 Indian Penal Code, 1860, registered at Police Station - Parliament Street, Delhi qua against the petitioners, namely Vijay Kumar Gupta, Raj Kumar Sharma and Vinod Chaudhary only to the extent of their role in commission of the alleged offence."

In "**Sarabjit Singh v. State of Punjab**", 2007(3) RCR (Criminal) 479 (P&H), money was taken by the accused in the said case for sending son of the complainant abroad, but he was sent to some other destination. The complainant had settled the dispute with the petitioners in the said case but not with the other accused, who had also filed the petition in this Court for quashing of the complaint. This Court quashed the complaint *qua* the petitioners in the said case by making it clear that the proceedings against the other accused would continue.

In "**Gurtej Singh vs. State of Haryana**", 2010(3) RCR (Criminal) 660 (P&H), it was held as under:

"6. The present dispute is purely personal in nature and the

compromise has been arrived at between the petitioner and complainant. The said compromise has been arrived at between the two without any pressure. The complainant has no objection if the said FIR is quashed qua the present petitioner.

7. *Taking into account the allegations as well as the statement of the complainant and the matter being totally personal in nature, there is no impediment in the way of this Court to quash the present FIR at least qua the petitioner.*

8. *Keeping in mind the decisions rendered by this Court in the cases of Parambir Singh Gill, Kulwinder Singh as well as the decision rendered by the Hon'ble Supreme Court in the case of Madan Mohan Abbot (supra) as also the facts of the present case, the compromise deserves to be accepted. Thus, it would be in the interest of justice to quash FIR No. 94 dated 03.07.2008 under sections 420, 467, 468, 471, 120B of Indian Penal Code, Police Station Pinjore, District Panchkula as well as further proceedings arising out of the same for keeping peace, harmony as well as to reduce friction in the society qua the petitioner only.*

9. *Accordingly, the aforesaid FIR and further proceedings arising out of the same are hereby quashed qua the petitioner whereas the proceedings against other accused shall continue...*

Keeping in view the aforementioned position, it is noticed that the present petition, which has been filed by petitioners herein, out of five accused, seeking quashing of FIR in question on the basis of compromise; thus, is a case of partial compromise which is permissible as per the judgments referred above.

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.”

Still further, the Hon'ble Apex Court in ***Ramawatar v.State of Madhya Pradesh 2021(4) RCR (Criminal) 555***, considered the following question:

“whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?”

While answering the abovesaid question, the Hon'ble Apex Court quashed the criminal proceedings and also set aside the judgments of conviction and sentence passed by the Trial Court as well as the High Court of Madhya Pradesh, by observing as under:-

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C...”

Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the instant case, this court is inclined to invoke powers under Section 482 Cr.P.C. and quash the criminal proceedings arising out of criminal complaint No. 69/2015 dated 11.09.2015 under Sections 323, 324, 506, 34 of Indian Penal Code and Section 3 (1) (i) (ii) (iii) of the SC/ST Act, 1989, and the summoning order dated 14.01.2016 (Annexure P-2) passed by Judicial Magistrate Ist Class, Samana, District Patiala and all consequential proceedings arising therefrom only qua present petitioners for the following reasons:

- i. The very purpose behind Section 3 of the SC/ST Act is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community.
- ii. The alleged occurrence appears to be on account of some misunderstanding between the parties during village elections and on account of party faction. The alleged occurrence does not appear to exhibit the mental depravity of the Petitioners.
- iii. The alleged occurrence dates back to September, 2015 and the compromise was effected between the parties on 31.01.2020. There is nothing on record to indicate that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not pointed out any other occurrence that would lead this court to believe that the Petitioners are either the repeat offenders or are unremorseful about what transpired.
- iv. The Complainant has, on his own free will, without any compulsion, entered into a compromise and wishes to drop the

present criminal proceedings against the petitioners-accused.

- v. The petitioners do not suffer any criminal antecedents and are not involved in any other case.
- vi. The complainant is not likely to support the case of the prosecution and continuation of the proceedings is likely to be a waste of judicial time.
- vii. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.
- viii. The grievances having been resolved, no interest of justice would be served by forcing the petitioners to undergo rigours of criminal proceedings.
- ix. The Petitioners as well as the Complainant parties are residents of the same village and live in vicinity to each other. This court has no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to advance peace and harmony, it will be prudent to effectuate the present settlement.
- x. The cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties.

For the reasons stated above, the present petition is allowed and the criminal proceedings in the aforesaid criminal complaint No. 69/2015 dated 11.09.2015 under sections 323, 324, 506, 34 of Indian Penal Code and section 3 (1) (i) (ii) (iii) of the SC/ST Act, 1989, and the summoning order dated 14.01.2016 (Annexure P-2) passed by Judicial

Magistrate Ist Class, Samana, District Patiala, and all consequential proceedings arising therefrom are quashed qua the petitioners (Malak Singh son of Suba Singh, Bhupinder Singh son of Subegh Singh,, Komalpreet Kaur @ Simranjit Kaur wife of Bhupinder Singh, Gurwinder Singh son of Balkar Singh). 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.

It is clarified that the proceedings against the other accused shall continue.

Disposed of in the aforesaid terms.

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

09.02.2023
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No