

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRM-M-14026-2023 (O&M)

Date of Decision : 13.12.2023

JASVIR KAUR & ORS.

.... Petitioners

VERSUS

STATE OF PUNJAB & ANR.

.... Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. A.S. Brar, Advocate for the petitioners.

Mr. Adhiraj Singh Thind, AAG Punjab for respondent No.1.

Mr. Swarn Singh Tiwana, 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.28 dated 30.03.2018 registered under Sections 354, 384, 120-B of the Indian Penal Code, 1860 at Police Station Sadar Moga, District Moga, along with all the subsequent proceedings arising out of the said FIR, on the basis of compromise dated 08.03.2022 (Annexure P-2).

2. On 25.07.2023 the following order was passed :

“Learned counsel for the petitioners refers to Annexure P-2 dated 08.3.2022 to contend that a compromise has been effected between the parties and prays for quashing of FIR No.28 dated 30.03.2018, under Sections 354, 384 and 120-B IPC, registered at Police Station Sadar Moga, District Moga (Annexure P-1).

Learned counsel for respondent No.2 admits the factum of compromise.

Accordingly, the private parties are directed to appear before the trial Court/Illaqa Magistrate on 09.8.2023 for recording their statements with regard to compromise/settlement. Trial Court/Illaqa Magistrate is directed to submit a report on or before the next date of hearing containing the following information :-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

A copy of the report be also sent through fax to the Registrar Judicial of this Court.

Adjourned to 13.12.2023.”

3. Pursuant to the order dated 25.07.2023, a report dated 29.09.2023 of the learned Additional Chief Judicial Magistrate, Moga 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.28 dated 30.03.2018 registered under Sections 354, 384, 120-B of the Indian Penal Code, 1860 at Police Station Sadar Moga, District Moga, along with all the subsequent proceedings arising out of the said FIR, are quashed on the basis of compromise dated 08.03.2022 (Annexure P-2).

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

13.12.2023
Aman Jain

(ALKA SARIN)
JUDGE

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