

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-M-13916-2023

Date of Decision: 07.10.2023

Ashish Gupta

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS SURI

Present:-

Mr. Parveen Kumar, Advocate for
Mr. Abhimanyu Singh, Advocate, for the petitioner.

Mr. Pawan Jhanda, D.A.G., Haryana.

Mr. Monit Pal Singh, Advocate, for
Mr. Rahul Noorie, Advocate, for respondent No.2.

VIKAS SURI, J.

[1] This is a petition filed under Section 482 Cr.P.C. for quashing of case FIR No.37 dated 28.01.2014 registered under Sections 120-B, 406, 420, 467, 468 and 471 IPC at Police Station Civil Lines, Bhiwani, District Bhiwani (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise entered into between the parties dated 10.03.2023 (Annexure P-2).

[2] On 18.04.2023, when the case was taken up for hearing, private parties were directed to appear before the trial Court/Illaq Magistrate on 01.05.2023 to get their statements recorded to the effect that the compromise has actually been arrived at between them and the Magistrate concerned was

directed to furnish its report along with the statements recorded opining therein as regards the genuineness and veracity of compromise, if any, between the parties. The Magistrate concerned was further directed to apprise this Court whether all the accused are party to the compromise and whether any of the accused has ever been declared proclaimed offender(s) and if is there any other criminal case pending against him/them.

[3] Pursuant to order dated 18.04.2023, a report has been submitted by the Judicial Magistrate 1st Class, Bhiwani. The relevant portion of the said report is reproduced hereinbelow:-

“In compliance of the aforesaid order, the parties are appeared before the court today. The complainant Kesari Chand Bansal and the accused Ashish Gupta got their statements recorded to the effect that the matter has been compromised between them after due consideration. The complainant further stated that he has given his statement of his own will without any influence or pressure. He has further stated that no other criminal case has been filed by him against the present accused. Their separate statements to the effect have been duly recorded after being duly identified by their counsels. The statements suffered by the complainant and the accused are as follows:-

Complainant: Kesari Chand Bansal

The complainant has suffered that the matter has only been compromised between him and accused Ashish Gupta on payment of a settlement amount of Rs.15,00,000/- which has been received by him. The case against two other accused Atul Gupta and Ramchander Soni will continue as such and he has no objection to quashing of the FIR against accused Ashish Gupta.

Accused: Ashish Gupta

The accused has suffered that he has made a payment of Rs.15,00,000/- to the complainant via

demand drafts which he has accepted and thus, the present FIR against him be quashed.”

[4] A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence. It has been stated that the statements of the complainant as well as the accused have been recorded and both of them have vouched for the compromise and have endorsed no objection in case the FIR is quashed. It is further stated that the complainant has made statement voluntarily without any fear, coercion or pressure.

[5] A perusal of the abovesaid report would also show that besides the petitioner, two other persons were nominated in the present FIR but the present petition has been filed by petitioner only for quashing of FIR on the basis of compromise and thus, is a case of partial compromise. Learned counsel for the petitioner has relied upon judgment passed by the Apex Court in *Jayrajsinh Digvijaysinh Rana vs. State of Gujarat and another, 2012(12) SCC 401* to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.

[6] Learned counsel for the petitioner has submitted that the petitioner was never declared proclaimed offender in the present case.

[7] Learned counsel for the State, as per instructions has admitted the said fact to be correct.

[8] Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in their best interest and would help in bringing out peace and harmony between the two parties.

[9] Heard learned counsel for the parties and perused the file.

[10] After perusing the report submitted by the Judicial Magistrate 1st Class, Bhiwani, this Court finds that the matter has since been amicably settled and the parties have decided to live in peace, this Court finds that continuance of criminal trial against the present petitioner would be futile exercise and in order to secure the ends of justice, the FIR qua him deserves to be quashed.

[11] As per the Full Bench judgment of this Court in ***Kulwinder Singh and others Vs State of Punjab, 2007 (3) RCR (Criminal) 1052***, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the opinion that the same is required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

[12] Hon'ble the Apex Court in the case of ***Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303***, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. Para 61 of the said judgment is reproduced hereinbelow:-

“61.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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 predominatingly civil flavour stand on a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

[13] In the light of the above discussion, the instant petition is allowed and resultantly, FIR No.37 dated 28.01.2014 registered under Sections 120-B, 406, 420, 467, 468 and 471 IPC at Police Station Civil Lines, Bhiwani, District Bhiwani (Annexure P-1) and all consequential proceedings arising thereof, on the basis of compromise, are hereby quashed qua the petitioner Ashish Gupta only.

[14] All pending miscellaneous applications, if any, also stand disposed of.

October 07, 2023
harish

(VIKAS SURI)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No