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

**CRM-M-16270-2022(O&M)
Date of Decision: 14.03.2023**

VISHAL GOURI

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Sanpreet Sandhu, Advocate
for the petitioner.

Mr. Arun Beniwal, DAG, Haryana.

Mr. Vikas Bishnoi, Advocate for
Mr. Shivam Chaudhary, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

Prayer in the instant petition filed under Section 482 Cr.P.C. is for quashing of FIR No.189 dated 29.03.2022 (Annexure P-1) registered under Sections 148, 149, 323, 379-B, 427 and 506 of Indian Penal Code, 1860 at Police Station Jagadhri City, District Yamuna Nagar along with all consequential proceedings therefrom on the basis of compromise/agreement dated 01.04.2022 (Annexure P-2) entered into between the parties.

Upon issuance of notice in this case, reply on behalf of respondent No.1-State was filed by way of affidavit of Parmod Kumar, HPS, Deputy superintendent of Police, Yamuna Nagar on 17.10.2022. Statement of complainant Parkash alias Shanky, regarding compromise, has been

placed as Annexure R-2, which reads as under:-

“Stated that I am resident of above mentioned address. On 28-03-2022, I and Vishal Gauri alias Sunny son of Joginder Singh alias Jinder resident of Gandhi Dham, Jagadhri and some other boys had made quarrel with me. At that time, I had got registered at case FIR No. 189, dt. 29-03-2022, u/s 148, 149, 323, 427, 379B, 506 IPC at police station City Jagadhri in respect of snatching of one gold chain, keys of vehicle and snatching of other articles and causing damage to the vehicle and giving beatings. Vishal Gauri is my relative and our quarrel was took place due to some dispute and later my gold chain found out from my clothes and keys of vehicle and mobile and other articles were found in vehicle. Now our compromise has took place and now I do want to further proceed on my case and we both parties have filed a petition for quashing before Hon'ble High Court of Punjab and Haryana. Today, I have got my statement recorded, heard and admitted it as correct.”

Vide order dated 10.01.2023, 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 Chief Judicial Magistrate, Yamuna Nagar, District Jagadhri has submitted its report, vide letter dated 16.02.2023 which indicates that the parties appeared before the Magistrate 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 without any pressure or coercion from any corner. Relevant extract of the said report is reproduced as under:-

“1. As per the statement of complainant, the matter between the complainant/Parkash Bholi and accused has been compromised without any coercion, undue influence and pressure and there is only one accused in the present case and complainant and accused have signed the agreement and the complainant has no objection, if the FIR is quashed against the accused. In the similar manner, the accused namely Vishal Gori has given his statement that he has compromised the matter with the complainant, without any coercion, undue influence and pressure. From the statements of complainant

and accused, it appears that the matter between both the parties has been compromised voluntarily, without any pressure of any kind, from any corner and compromise effected between them is genuine.

Hence, it seems that the statements of parties are *bona fide*, not the result of any fraud or misrepresentation and is the result of free Will of the parties and accused namely Vishal Gori has compromised the matter with the complainant and complainant and said accused have signed the agreement/compromise deed and hence, the compromise effected between them is genuine, voluntary and without any coercion, pressure or undue influence and is valid.

2. In the abovesaid FIR, ASI Rishi Pal (IO of the present case) appeared and suffered a statement before the Court. As per his statement, FIR was lodged against total five accused persons namely (1) Vishal Gori, (2) Anmol, (3) Desi, and two unknown persons and none of those persons had joined in investigation till yet. The stage of the present case is under investigation. None of the accused persons has been declared as proclaimed offender/person in the present case and except the present case, none of the abovesaid accused persons is involved in any other case as per record. In the present case, there is only one complainant/victim namely Parkash Bholi.”

It is the submission of learned counsel for the petitioner that in present FIR No.189 dated 29.03.2022, there are total five accused, however respondent No.2/complainant has entered into a compromise only with the petitioner in this case; accordingly, a prayer has been made that the abovesaid FIR may kindly be quashed only against the petitioner herein and the proceedings may go on against the other accused in the said FIR.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and compromised only between the petitioner in this case and respondent No.2/complainant so as to bring peace and amity between the parties. Accordingly, it is submitted that present FIR No.189 dated 29.03.2022 may kindly be quashed only against the petitioner herein

and the proceedings may be directed to go on against the other accused in the said FIR.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR only qua petitioner in this case.

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...”*

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...*

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.

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. to quash the criminal proceedings for the following reasons:

1. The petitioner and the respondent No.2-complainant are stated to be relatives.
2. The allegation qua petitioner prima facie appears to be a result of misunderstanding between the parties.
3. The petitioner does not suffer any criminal antecedents and is not involved in any other case.
4. The FIR in this case was registered on 29.03.2022 and the compromise was effected on 01.04.2022 and there is nothing on record to show that either before or after the purported compromise, any untoward incident transpired between the

parties;

5. The parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

6. The complainant is not likely to support the case of the prosecution against the petitioner.

7. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.

8. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigours of criminal proceedings.

9. The quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings against the petitioner is not likely to advance any interest of justice.

10. 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, this petition is allowed and the criminal proceedings in the aforesaid FIR No.189 dated 29.03.2022 (Annexure P-1) registered under Sections 148, 149, 323, 379-B, 427 and 506 of Indian Penal Code, 1860 at Police Station Jagadhri City, District Yamuna Nagar along with all consequential proceedings therefrom, are quashed only qua the petitioner. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner 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.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

It is made clear that the proceedings against other accused shall continue.

Disposed of in the aforesaid terms.

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

14.03.2023
Amandeep

(HARSH BUNGER)
JUDGE

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