

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

**CRM-M-16030-2023 (O&M)
Date of decision: 23.11.2023**

Rishu @ Rajesh Kumar and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Ketan Chopra, Advocate for
Mr. Vishal Munjal, Advocate for the petitioners.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab
for respondent No.1.

Mr. Sunil Agnihotri, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.0191 dated 04.09.2020 (P-1), under Sections 323, 324 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station Division No.2, District Pathankot along with all consequential proceedings arising therefrom on the basis of compromise dated 01.03.2023 (P-2), entered into between the parties i.e. petitioners as well as respondent No.2.

(2) Above FIR was registered on the basis of statement made by respondent No.2-Shubham with the allegations that when complainant party had gone to dig the foundation for the construction of house over their plot, petitioners, armed with *Daang & Kirpan*, abused the labourers and inflicted various injuries to the complainant.

(3) The Coordinate Bench, while issuing notice of motion on 10.04.2023, passed the following order in the main petitions (version and cross-version):-

“These petitions have been filed under Section 482 Cr.PC for quashing of FIR No.191 dated 04.09.2020 under Sections 323/324/34 148/149/427 IPC, 1860 registered at Police Station Division No.2, Pathankot, District Pathankot (Annexure P-1) as well as quashing of cross-version GD No.27 dated 19.09.2020 under Sections 323/324/148/149/427/34 IPC, 1860 registered at Police Station Division No.2, District Pathankot in FIR No.191 dated 04.09.2020 and all the subsequent proceedings arising therefrom on the basis of compromise dated 01.03.2023 arrived at between the parties.

Notice of motion.

Mr. Adhiraj Singh, AAG, Punjab, puts in appearance and accepts notice on behalf of respondent No.1-State and seeks time to file reply, if any.

At this stage, Mr. Vishal Munjal, Advocate for respondent No.2 in CRM-M-16292-2023 and Mr. Sunil Agnihotri, Advocate for respondent No.2 in CRM-M-16030-2023 put in appearance and filed power of attorney in the Court today which are taken on record. Copies of the paper book be supplied during the course of the day.

Learned counsels for respondent No.2 affirmed the factum of compromise between the parties.

Let the parties to appear before the trial Court/Area Magistrate, as the case may be, on 24.04.2023 for getting their

statements recorded with regard to the compromise. Trial Court is directed to report on the following points:-

- (i) how many total accused are facing the trial;*
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial;*
- (iii) status/stage of the trial/case;*
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise;*
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.*

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 10.07.2023.

Photocopy of this order be placed on the file of other connected case.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate 1st Class, Pathankot and submitted a report dated 08.05.2023. The operative part of the same reads as under:-

“After going through the statements and the file, I am satisfied that both the parties have got recorded their statements voluntarily with regard to the compromise and the compromise is genuine one. The point wise report is as follows:

- (i) There are four accused/petitioner i.e. Rajesh Kumar @ Rishu, Puneet, Ankush @ Anku and Raj Kumar arrayed as accused in the FIR.*
- (ii) It is submitted that no accused has been declared as proclaimed offender.*
- (iii) The case is fixed for consideration on charge.*
- (iv) It is submitted that, as per statement of both the parties the compromise appears to be genuine, voluntary and without any coercion or undue influence.”*

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioners as well as respondent No.2 with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no grievance shown by either of the parties against each other.

(6) Learned State Counsel, on instructions from ASI Sunder Singh, also submitted that they have no objection in case the aforesaid FIR as well as consequential proceedings are quashed on the basis of the compromise effected between the parties.

(7) Learned Counsel for respondent No.2 also raises no objection.

(8) Hon'ble the Supreme Court in '**Gian Singh Versus State of Punjab**', (2012) 10 SCC 303, has held as under:-

“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.”

(9) In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not affect any public peace or tranquility of the Society. Thus, quashing of the FIR in question along with consequential proceedings on the basis of compromise would bring peace and harmony to secure the ends of justice.

(10) Consequently, present petition is allowed; aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioners. However, as a deterrence for the future, petitioners shall bear

costs of Rs. 20,000/- (Rs. 5000/- each). Costs be deposited with the Punjab and Haryana High Court Bar Association, Chandigarh Lawyers’ Family Welfare Fund.

(11) Pending application(s), if any, shall also stand disposed off.

November 23, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes