

**120 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CRM M-16872-2022

Date of Decision: 05.12.2023

Balwinder Singh @ Fuman

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. G.S. Randhawa, Advocate, for the petitioner.

Mr. C.L. Pawar, Addl.A.G. Punjab, for respondent No.1.

Mr. Sandeep Godara, Advocate for

Mr. G.S. Bawa, 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.173 dated 17.10.2020(P-1), registered under Sections 326, 324 and 323 of the Indian Penal Code, 1860 (for short, '*the IPC*') at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur (Punjab) along with all consequential proceedings arising therefrom on the basis of compromise dated 15.03.2022(P-2) entered into between the parties i.e. petitioner as well as respondent No.2.

2. Allegations against the petitioner are that he caused grievous hurt to complainant with *Datar*.

3. The Coordinate Bench, while issuing notice of motion, on 25.04.2022, passed the following order:-

"The petitioner has approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion for 3.11.2022.

At this stage, Mr. G.S.Bawa, Advocate has today put in appearance on behalf of respondent No.2 and has filed memo of appearance, which is taken on record.

The parties are directed to move an application before the trial Court/Illaq Magistrate concerned for getting their statements recorded qua the factum of compromise. As and when any such application is

moved and put up before the trial Court/Illaq Magistrate, the trial Court/Illaq Magistrate shall consider the said application and do the needful for recording the statements of the parties qua the factum of the compromise, on any convenient date. After recording the statements of all the affected parties, and upon getting requisite information from Investigating Officer, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded, broadly on the following aspects:

- (i) Whether there is any other accused other than the petitioners, arrayed in this petition.*
- (ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.*
- (iii) Whether any accused has been declared Proclaimed Offender?*
- (iv) Whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion?*

The report be submitted before this Court on or before the next date.”

4. In terms of aforesaid order, the statements of both the parties were recorded and a report dated 24.05.2022 has been submitted by learned Judicial Magistrate First Class, Batala. The operative part of the same reads as under:-

- "1. As per the statement of Investigation Officer, only one person is arrayed as accused (Balwinder Singh) in this case.*
- 2. As per statement of Investigation Officer, except respondent-Surinder Singh, no other person is victim/aggrieved.*
- 3. As per statement of Investigation Officer, accused-petitioner has not been declared proclaimed person in this case.*
- 4. After going through the statements of the parties, this Court is satisfied that complainant has effected the compromise with the above named accused with his own free will and without any coercion or pressure from any corner and same is found genuine.*

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no objection by either of the parties against the compromise.

6. Learned State Counsel, on instructions from the police official present in the Court, 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. Ho'ble the Supreme Court in Gian Singh v. 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.”

8. In view of the above, this Court is fully convinced that the offence is entirely personal in nature and does not affect public peace or tranquility. 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.

9. Consequently, present petition is allowed; aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioner. However, as a deterrence for the future, petitioner is burdened with costs of Rs.10,000/-. Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.

05.12.2023

Anjal

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned : Yes/No
Whether Reportable: Yes/No