

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

**CRM-M-31830-2018 (O&M)
Date of decision: 22.11.2023**

Nirankar Singh and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jasraj Singh, Advocate for
Mr. J.B.S. Gill, Advocate for the petitioners.

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

Mr. Naresh Kumar, 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.101 dated 14.09.2013 (P-1), under Sections 341, 295, 323, 506, 148, 149 of the Indian Penal Code, 1860, registered at Police Station Mehtiana, District Hoshiarpur along with all consequential proceedings arising therefrom on the basis of compromise by way of affidavit dated 18.07.2018 (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-Saroop Singh with the allegations that on 13.09.2013 at about 07:00 PM, petitioners along with other co-accused, while raising *lalkara*, caught hold of him from arms; uprooted his beard and also removed the turban. They also gave beatings to the complainant in the street of Police Post. Brother of complainant, namely, Surinder Singh and one Sarabjit Singh rescued the complainant from the clutches of accused persons and entered the Police Post. Thereafter, police officials rescued the complainant party; but there also, accused persons abused them. Hence, the present FIR.

(3) This Court, on 25.02.2019, passed the following order:-

“Although, the offence under Section 295 IPC is non compoundable, but the parties have amicably settled their dispute. Moreover, the dispute is between the neighbours on account of discharge of sewerage water.

In view of above, let the parties appear before the Court of learned Illaqa Magistrate/trial Court on 12.03.2019 to record their statements with reference to the compromise, if any, entered into between them.

Learned Illaqa Magistrate/trial Court will record the statements of all accused, complainant/injured and victim, if any and submit a report along with the statements to this Court before the next date of hearing containing the following information:-

(i). Whether the statements of the parties are bona fide and are not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s).

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof.

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender.

(vi). whether any of the petitioner(s) is/are previous convict or not?.

List before this Court on 01.04.2019 for further consideration.

Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection or not?

Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate 1st Class, Hoshiarpur and submitted a report dated 18.03.2019. The operative part of the same reads as under:-

“After examining the complainants and the accused persons and after going through their statements, the undersigned is satisfied that the compromise has been executed without any fear or favour. The same has been entered into between the parties of their free will and without any coercion or pressure. The parties have entered the said compromise with the help of respectable, as the parties belong to same village. As such the undersigned is convinced about the genuineness of compromise entered into between the parties. It is further submitted that;

- (i) The statement of the parties are bona-fide and are not result of any pressure or coercion etc. in any manner.*
- (ii) The compromise effected between the parties is genuine and valid.*
- (iii) All the accused, complainant and injured are party to the compromise. It may however be added that in his initial statement complainant Sarup Singh had implicated as many as five (sic –five) persons including Rajinder Singh and Avtar Singh besides the three accused named above. After inquiry however Avtar Singh and Rajinder Singh were declared innocent and were kept in column no.2 of the final report u/s 173 Cr.P.C. Consequently only three accused named above two are party to the compromised are forwarded for trial.*
- (iv) No other case is pending against any of the parties.*
- (v) None of the persons involved in the case has been declared a proclaimed offender.*
- (vi) None of the accused (Petitioners before the High Court) is a previous convict.”*

(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 Jasveer 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 in view of the fact that dispute is between the neighbours on account of discharge of sewerage water.

(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 involve any public funds. 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 are burdened with costs of ₹ 15,000/- (₹ 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 22, 2023
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(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes