

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

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CRM-M-32221-2016 (O&M)

Date of decision: 21.09.2023

Prem Singh and another

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Ashish Pannu, Advocate for the petitioners

Mr. HS Sullar, Sr. DAG, Punjab

Mr. Shivam Garg, Advocate for

Mr. Kuldeep Shoeran, Advocate for respondent No.2

AMAN CHAUDHARY, J

1. The present petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.19 dated 02.03.2011 under Sections 307 and 34 IPC and Sections 25, 27, 54 and 59 of Arms Act, at Police Station Ghuman, Police District Batala and all other consequential proceedings arising therefrom, in view of the compromise reached between the parties.

2. Learned counsel submits that the petitioners and the complainant are otherwise neighbours and it is a case of accidental FIR as has also been concluded by the DSP Qadian vide his report dated 01.07.2016, Annexure P-2. The injury was caused due to a pellet and was declared simple in nature, as per the radiologically investigation conducted by The Punjab Health Systems Corporation, Annexure P-5. Thereafter, cancellation of the FIR was recommended on 06.07.2017. There is a

compromise that has been arrived at between the parties with the intervention of the respectables of the society.

3. Short reply by way of an affidavit of Rajesh Kakkar, PPS, Deputy Superintendent of Police, Sub Division Sri Hargobindpur, Police District Batala has been filed by learned State counsel. The same is taken on record. Reference is made to para 5 thereof, which reads thus:

“XX XX XX

5. That, it is humbly submitted that during further investigation of the case Gurnam Singh S/o Prem Singh had submitted an application/representation bearing No.2117/Peshi dated 8.6.2011 to the Senior Superintendent of Police, Batala and the same was entrusted to the then Deputy Superintendent of Police, Qadian. The then Deputy Superintendent of Police, Sub Division Qadian conducted the investigation of the case and revealed out that on 1.3.2011 the complainant in the above said case Buta Singh S/o Tehal Singh R/o Nathu Khera alongwith respectable of the Village Piara Singh Ex.Sarpanch, Tarsem Singh Namberdar, Kunan Singh S/o Bawa Singh and Sukhdev Singh S/o Gurmej Singh went to hand over the possession of his house in village to Buti Ram. Then accused in the case Prem Singh S/o Mangal Singh and Gurnam Singh S/o Prem Singh R/o Nathu Khera came to the spot and demanded from Buta Singh to give the said land to them. But on Buta Singh's refusal to that they engaged in a fight During fight the 12 bore rifle in the hand of Gurnam Singh was fired. It is pertinent to state here that Gurnam Singh was cleaning his 12 bore rifle and on hearing noise he came out alongwith gun. It is not proved that Gurnam Singh intentionally brought 12 bore rifle to the spot with intention to fight. During fight Kunan Singh got injured with rifle. It is not found that Prem Singh fired shot with intention to kill. Due to accidental fire from the gun. Now the matter has been compromised between the parties and complainant Buta Singh and injured Kunan Singh also filed an affidavit that they do not want to pursue the matter further. Therefore investigation of the case by police will result in wastage of time. From enquiry it is found that no offence U/s 307 IPC and 25/27/54/59 Arms Act is found to be made out and now the matter has been compromised between the parties. Therefore the Investigating Officer recommended to prepared the cancellation report in the above said case and the

cancellation report has been prepared on 06.07.2011. However, the same is yet to be filed before the Ld. Court.”

4. Reference is also made to the Inquiry report dated 01.07.2016 conducted by DSP Qadian, the relevant para thereof reads thus:

“ XX XX XX

That from my inquiry after watching the above referred circumstances and case FIR No.19 dated 02.03.2011, u/s 307, 34 IPC, 25/27/54/59 Arms Act, P.S. Ghuman, from its inquiry it has been found that on dated 1.3.2011 the complainant in the abovesaid case Buta Singh s/o Tehal Singh, r/o Nathu Khera alongwith respectable of the Village Piara Singh Ex. Sarpanch, Tarsem Singh Numberdar, Kunan Singh r/o Bawa Singh and Sukhdev Singh s/o Gurmej Singh went to hand over the possession of his house in village to Buti Ram. Then accused in the case Prem Singh s/o Mangal Singh and Gurnam Singh s/o Prem Singh r/o Nathu Khera came to the spot and demanded from Buta Singh to give the said land to them. But on Buta Singh's refusal to that they engaged in a fight. During fight the 12 bore rifle in the hand of Gurnam Singh got fired.”

5. Learned counsel for respondents No.2 affirms the aforesaid facts; admits the factum of compromise and has no objection if the FIR in question is quashed.

6. Heard learned counsel for the parties and also gone through the case file.

7. Adverting to the facts, notice of motion vide order dated 15.09.2016 and on 14.02.2018 this Court had directed the parties to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise.

8. Pursuant to the aforesaid order, report dated 28.08.2023 has been received from the Judicial Magistrate 1st Class-cum-Civil Judge (Junior Division), Batala. A perusal of the said report reveals that

statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between them and they have no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion. It is stated in the report that there are two accused. None of the accused has been declared as proclaimed offender.

9. It is apposite to make a reference to the judgment of Hon'ble The Supreme Court of India in the case of **B.S. Joshi vs. State of Haryana**, (2003) 4 SCC 675, wherein it was observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. It was laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing.

10. In the case of “**Gian Singh vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, Hon'ble The Supreme Court 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.

The relevant portion of paras read thus:-

“57. 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. XXX---XXX”

61. 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 proceedings or continuation of criminal proceedings 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 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 proceedings.”

11. Hon'ble The Supreme Court in the case of **Yogendra Yadav vs. State of Jharkhand**, (2014) 9 SCC 653, held that “now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (**Gian Singh vs. State of Punjab**, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted

to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

12. In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioners and the complainant, this Court finds that quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

13. Resultantly, the present petition is allowed and FIR No.19 dated 02.03.2011 under Sections 307 and 34 IPC and Sections 25, 27, 54 and 59 of Arms Act, at Police Station Ghuman, Police District Batala and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

21.09.2023
M.Kamra

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No