

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

(234)

CRM-M-39688-2016

Date of Decision: 09.02.2023

Surjit Singh and another

--Petitioners

Versus

State of Punjab and another

--Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Rakesh Sobti, Advocate for
Mr. Gitish Bhardwaj, Advocate
for the petitioners.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Anshul Jain, Advocate for
Mr. Munish Jhanji, Advocate
for respondent No.2.

RAJESH BHARDWAJ.J (Oral)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.96 dated 09.08.2016, under Sections 406, 420 of IPC, registered at Police Station Khamano, District Fatehgarh Sahib on the basis of compromise/affidavit dated 21.10.2016 (Annexure P-2).

FIR in question was got registered by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute, which is apparent from Compromise Deed, annexed as Annexure P-2. On the basis of the compromise, the petitioners are invoking the inherent power of this Court by praying that continuation of these

proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

It has been submitted by counsel for the petitioner that soon after the registration of FIR, both the parties have amicably resolved their dispute by entering into compromise. He submits that the FIR was registered on 09.08.2016 and the compromise was arrived at between the parties on 21.10.2016. He further submits that the petition was also filed in the year 2016. However, at one stage, petition was dismissed in default and after its restoration, due to ongoing pandemic at that time, the case remained pending. He submits that with the intervention of the respectables, matter has been settled and the amount involved has already been refunded to the complainant and both have decided to live peacefully.

Learned counsel for the complainant has affirmed the submissions made by counsel for the petitioners. However, learned State counsel, on instructions from ASI Harinder Singh, submits that the case is pending investigation.

There is no gainsaying that the parties entered into compromise soon after registration of FIR and the petition was also filed at that time. However, the same remained pending consideration till date.

This Court vide order dated 07.11.2016 directed the parties to appear before the trial Court for recording their statements, as contended before the Court, and the trial Court was also directed to send its report.

In pursuance to the same, learned Sub Divisional Judicial Magistrate, Khamano has sent the report dated 19.12.2016 to this Court. With the report she has also annexed the photocopies of statements of respondent No.2-Ajaib Singh; statements of petitioners namely, Jagjeet Kaur and Surjit

Singh recorded on 28.11.2016. On the basis of the statements, learned Sub Divisional Judicial Magistrate, Khamanon has concluded in the report that the compromise effected between the parties is genuine, voluntarily, without any coercion or undue influence. It has been further mentioned there that none of the petitioners has been declared proclaimed offender in this case.

I have heard learned counsel for the parties, perused the record and the report sent by learned Sub Divisional Judicial Magistrate, Khamano.

In *Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466*, the Hon'ble Supreme Court laid down certain guidelines to be taken into consideration by the High Courts while exercising its power under Section 482 Cr.P.C., the relevant part of which reads as under:-

“31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

(I) to (VI)

(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to

start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above.”

Thus, keeping in view the law settled in **Narinder Singh's** case (supra), this Court is inclined to invoke its power under Section 482 Cr.P.C. to meet the ends of justice, wherein it has been held that if the settlement is arrived at immediately after the alleged commission of offence when the matter is still under investigation, the High Court may be somewhat liberal in accepting the settlement and quashing of proceedings/ investigation.

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including **B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675** followed by this Court in Full Bench case of **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052** have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in ***Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303*** further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the

FIR in *State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335*. Para 61 of the judgment reads 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominantly 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

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 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.”

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court, it is apparent that when the parties have entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

Hon'ble Supreme Court in ***Gold Quest International Private Limited Vs. State of Tamil Nadu and others, 2014(15) SCC 235*** has held as under:-

“In view of the principle laid down by this court in the aforesaid cases, we are of the view in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings

under Section 482 Cr.P.C read with Article 226 of the Constitution.”

As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.96 dated 09.08.2016, under Sections 406, 420 of IPC, registered at Police Station Khamano, District Fatehgarh Sahib is hereby quashed *qua* the petitioners on the basis of compromise. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

09.02.2023
m.sharma

(RAJESH BHARDWAJ)
JUDGE

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