

251

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-23478-2022 (O&M)

Date of Decision : 06.09.2023

Mantar Singh & Others

....Petitioners

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. Vivek Singla, Advocate for the petitioners.

Mr. H.S.Sidhu, AAG Punjab for respondent No.1.

Mr. Shubham Mehta, Advocate for respondent No.2.

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ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0093 dated 25.06.2019 registered under Sections 336, 354-C, 148, 149, 506 of the Indian Penal Code, 1860 (IPC) and Section 25/27 of the Arms Act, 1959 (for short, the 'Act 1959') (offence under Section 336 IPC and Section 27 of the Arms Act, 1959 was deleted and offence under Section 307 IPC was added later on) at Police Station Jaito, District Faridkot, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 05.05.2022 (Annexure P-2).

2. On 26.05.2022 the following order was passed :

“Notice of motion.

Ms. Gunkirat Kaur, AAG, Punjab and Mr. Shubham Mehta, Advocate, accept notice on behalf of respondent No.2.

Learned counsel for the petitioners undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioners seek quashing of FIR No.0093 dated 25.06.2019 registered under Sections 354-C, 148, 149, 506, 307 IPC and Section 25 of the Arms Act, 1959 at Police Station Jaito, District Faridkot on the strength of a written compromise dated 05.05.2022 (Annexure P-2) entered into between the parties.

The present is a case of no injury. As such in the peculiar facts of the matter, the petitioners as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 14.07.2022 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the

recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties. The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 27.09.2022.”

3. Pursuant to the order dated 26.05.2022, a report dated 22.09.2022 of the Additional District & Sessions Judge-1, Faridkot has been received by this Court wherein it has been stated that the statements of the parties have been recorded and the parties have stated that they have compromised the matter voluntarily without any threat, pressure, undue influence or fraud and that the complainant/respondent No.2 has no objection to the quashing of the present FIR. Statements of the parties have also been appended with the report.

4. Learned counsel for the petitioners has contended that the present is a no injury case. Initially the FIR was registered under Sections under Sections 336, 354-C, 148, 149, 506 of the Indian Penal Code, 1860 and Section 25/27 of the Arms Act, 1959. However, on a supplementary statement of the complainant, offence under Section 307 IPC was added

later on the allegation that the petitioners - Kachu and Mantar Singh - had fired from their weapons towards the complainant. Infact no offence under Section 307 IPC read with Section 25 of Arms Act 1959 is made out.

5. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]** has held as under :

“56. We find no incongruity in the above principle of law and the decisions of this Court in Simrikhia, Dharampal, Arun Shankar Shukla, Ishwar Singh, Rumi Dhar (Smt.).²⁸ and Ashok Sadarangani. The principle propounded in Simrikhia that the inherent jurisdiction of the High Court cannot be invoked to override express bar provided in law is by now well settled. In Dharampal, the Court observed the same thing that the inherent powers under section 482 of the Code cannot be utilised for exercising powers which are expressly barred by the Code. Similar statement of law is made in Arun Shankar Shukla. In Ishwar Singh, the accused was alleged to have committed an offence punishable under Section 307 Indian Penal Code and with reference to Section 320 of the Code, it was held that the offence punishable under Section 307 Indian Penal Code was not compoundable offence and there was express bar in Section 320 that no offence shall be compounded if it is

not compoundable under the Code. In Rumi Dhar (Smt.) 28 although the accused had paid the entire due amount as per the settlement with the bank in the matter of recovery before the Debts Recovery Tribunal, the accused was being proceeded with for commission of offences under Section 120B/420/467/468/471 of the Indian Penal Code along with the bank officers who were being prosecuted under Section 13(2) read with 13(1)(d) of Prevention of Corruption Act. The Court refused to quash the charge against the accused by holding that the Court would not quash a case involving a crime against the society when a prima facie case has been made out against the accused for framing the charge. Ashok Sadarangani was again a case where the accused persons were charged of having committed offences under sections 120B, 465, 467, 468 and 471, Indian Penal Code and the allegations were that the accused secured the credit facilities by submitting forged property documents as collaterals and utilised such facilities in a dishonest and fraudulent manner by opening letters of credit in respect of foreign supplies of goods, without actually bringing any goods but inducing the bank to negotiate the letters of credit in favour of

foreign suppliers and also by misusing the cash-credit facility. The Court was alive to the reference made in one of the present matters and also the decisions in B.S. Joshi, Nikhil Merchant and Manoj Sharma and it was held that B.S. Joshi, and Nikhil Merchant dealt with different factual situation as the dispute involved had overtures of a civil dispute but the case under consideration in Ashok Sadarangani was more on the criminal intent than on a civil aspect. The decision in Ashok Sadarangani supports the view that the criminal matters involving overtures of a civil dispute stand on a different footing.

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. 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-dominatingly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

6. Learned counsel for the petitioners has also referred to the law laid down by this Court in **Kulwinder Singh & Ors. vs. State of Punjab & Anr. [2007 (3) RCR (Criminal) 1052]** wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

7. The present is a no injury case and admittedly the FIR was initially registered only under Sections under Sections 336, 354-C, 148, 149, 506 IPC for the offence of voyeurism and firing in the air. Offence under Section 307 IPC was added later on the basis of supplementary statement of the complainant and now Section 27 of the Arms Act, 1959 stands deleted.

8. In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

9. Resultantly, FIR No.0093 dated 25.06.2019 registered under Sections 336, 354-C, 148, 149, 506 and Section 25/27 of the Arms Act, 1959 (offence of the Indian Penal Code, 1860 under Section 336 IPC and Section 27 of the Arms Act was deleted and offence under Section 307 was added later on) at Police Station Jaito, District Faridkot is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 05.05.2022 (Annexure P-2).

10. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

September 06, 2023
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(ALKA SARIN)
JUDGE

NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO