

220 (1st case)

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

**CRM-M-33073-2021 (O&M)
Date of decision: 24.11.2023**

Vijay Kumar and others

... Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Karanjeet Singh Brar, Advocate for the petitioners.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab
for respondent No.1.

Mr. Nishant, Advocate for
Mr. Rajat Dogra, Advocate for respondent Nos.2 & 3.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.238 dated 20.12.2018 (P-1), under Sections 323, 379B, 341, 148 read with Section 149 of the Indian Penal Code, 1860, registered at Police Station Guruharsahai, District Ferozepur along with all consequential proceedings arising therefrom on the basis of compromise dated 21.06.2021 (P-2), entered into between the parties i.e. petitioners as well as respondent Nos.2 & 3.

(2) Above FIR was registered on the basis of statement made by respondent No.2-Mangat Ram with the allegations that on 19.12.2018 at about 1:30 p.m., he and his wife (respondent No.3) were returning after filling the Nomination Form of his wife to the post of *Sarpanch*. On the way, petitioners along with 5/7 unidentified persons, armed with *Dangs*, *Sotas* & iron rods, came there and inflicted injuries to respondent Nos.2 & 3. On raising alarm, all accused decamped with their respective weapons. Meanwhile, Petitioner No.1-Vijay Kumar forcibly seized one *Tola* Gold Chain; whereas petitioner No.5-Naseeb Kumar snatched purse, containing about Rs.10,000/, from the pocket of complainant.

(3) The Coordinate Bench, on 20.02.2023, passed the following order:-

“This petition has been filed for quashing of FIR No. 238 dated 20.12.2018 registered under Sections 323, 379-B, 341, 148, 149 IPC at Police Station Guruharsahai, District Ferozepur on the basis of compromise.

The parties are directed to appear before the trial Court/Illaq Magistrate on 20.03.2023 at 10.00 a.m. and get their statements recorded and thereafter the trial Court shall transmit its report to this Court regarding genuineness of compromise before the next date of hearing i.e. 28.04.2023.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Sub Divisional Judicial Magistrate, Guruharsahai and submitted a report dated 28.03.2023. The operative part of the same reads as under:-

“From the statements as recorded in the Court, I am satisfied that the compromise had been effected between the petitioners/accused (1) Vijay Kumar son of Ramesh Kumar, (2) Shimla Rani wife of Ramesh Kumar, (3) Sunita Rani wife of Vijay Kumar, (4) Gulshan Kumar son of Darshan Lal, (5) Nasib Kumar son of Sant Ram, (6) Deepak Kumar @

Amandeep Abrol son of Gurmit Lal, (7) Ramesh Kumar @ Harmesh Ram son of Rangu Ram, (8) Bagicha Singh son of Om Parkash and (9) Jatinder Singh @ Jatinder Kumar son of Harish Kumar, all residents of village Jhawla, Tehsil Guruharsahai, District Ferozepur and complainant/respondent no.2 namely Mangat Ram son of Madan Lal, complainant/respondent no.3 namely Neelam Rani wife of Mangat Ram, both residents of village Jhawla, Tehsil Guruharsahai, District Ferozepur was without any pressure, threat or coercion from any person and same is genuine, correct and voluntary one.”

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioners as well as respondent Nos.2 & 3 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 HC Kuldeep 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.

(7) Learned Counsel for respondent Nos.2 & 3 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 affect any public peace or tranquility of the Society. 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 shall bear costs of Rs. 30,000/- (Rs. 3000/- 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 24, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes