

CRM-48052-2022 in/and  
CRM-M-31106-2022

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

\*\*\*\*

**CRM-48052-2022 in/and  
CRM-M-31106-2022  
Date of Decision: 12.01.2023**

Akash Masih and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSH BUNGER**

Present: Ms. Pratula Sethi, Advocate for  
Mr. Rahul Bhargava, Advocate  
for the applicants/petitioners.

Mr. Subhash Godara, Additional A.G., Punjab  
for respondent No.1/State.

Ms. Ramandeep Kaur, Advocate  
for respondents No.2 and 3.

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**HARSH BUNGER J. (ORAL)**

**CRM-48052-2022:**

Present application has been filed for placing on record order dated 16.11.2021, passed by the Principal Magistrate, Juvenile Justice Board, Amritsar, as Annexure P-3.

For the reasons mentioned in the application, the same is allowed and order dated 16.11.2021 (Annexure P-3), passed by the Principal Magistrate, Juvenile Justice Board, Amritsar, is taken on record, subject to all just exceptions.

Application is accordingly disposed of.

**CRM-M-31106-2022:**

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.25 dated 07.02.2020 (Annexure P-1), under Section 323, 324 and 326 IPC read with Section 34 IPC & Section 25 of the Arms Act, registered at Police Station Chheharta, Amritsar and all the consequential proceedings arising therefrom, on the basis of compromise deed dated 08.04.2022 (Annexure P-2).

Vide order dated 20.07.2022, the Illaqa Magistrate was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Judicial Magistrate Ist Class, Amritsar has submitted a consolidated report, vide letter dated 23.08.2022 which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of compromise. As per the report, compromise arrived at between the parties is genuine and with free will and consent. Relevant extract of the said report is reproduced as under:-

“ - x - x -

*It is most humbly submitted that as per the said order of the Hon'ble High Court dated 20.07.2022 in CRM-M-31106-2022, as per which, the parties were directed to appear before the Trial Court/Illaqa Magistrate for recording their respective statements with regard to compromise/settlement and the Trial Court/Illaqa Magistrate was directed to submit a report on or before the next date of hearing containing information regarding the fact that whether the compromise arrived between the parties is voluntary or not.*

*2. Accordingly, in compliance of the aforesaid order of the Hon'ble Punjab & Haryana High Court, the complainant*

*Harpreet Singh, injured Mangal Singh and accused Akash Masih son of Jugraj Masih and Abhishek Rai @ Abhi son of Balwant Rai appeared in the Court on 10.08.2022 for recording their statements.*

*3. As per the statements suffered by the parties, i.e. the complainant, injured and the accused, they have compromised the matter, voluntarily and the compromise was effected between the parties as per their free will and consent. The parties also brought on record the copy of compromise deed as Ex.C1.*

*4. Statement of Investigating Officer in the present case is also recorded vide which he suffered statement that the present FIR was registered on statement of complainant Harpreet Singh @ Happy son of Buta Singh against accused Abhishek Rai, Abhiraj Singh, Akash Masih and Kamal Masih and challan has already been filed against accused Abhishek Rai and Abhiraj Singh in this court. Challan has already been presented against Juvenile Kaamal Masih in the court of Ms. Surbhi Prashar, Ld. Presiding Officer, Juvenile Justice Court, Amritsar. It is further submitted that none of the accused are declared proclaimed offenders. Accused Akash Masih is not involved in any other FIR. He has further stated that the FIR bearing No.25 dated 19.02.2020, under Sections 379-B IPC and 25/54/59 Arms Act, P.S. Kathunangal, FIR No.40 dated 07.03.2020, under Sections 379/411/473/34 IPC and 25/54/59 Arms Act, P.S. Chheharta, Amritsar are pending against accused Abhishek Rai.*

*5. Therefore, in light of the statements suffered by the complainant Harpreet Singh, injured Mangal Singh and accused Akash Masih son of Jugraj Masih and Abhishek Rai @ Abhi son of Balwant Rai and as per the terms of the compromise effected between them, it appears that the parties have entered into a genuine compromise as per their free will and without any undue influence.*

6. *It also appears from the statement of Investigating Officer that four persons were arrayed as accused in the FIR, none of the parties in the present case has been declared as proclaimed offender. Report under Section 173 Cr.P.C. filed after completion of investigation. Challan has only been presented against accused Abhiraj Singh and Abhishek Rai and no prosecution evidence has commenced in this case yet. As per report of IO, accused Akash Masih is not involved in any other FIR. FIR No.40 dated 07.03.2020, under Sections 379/411/473/34 IPC and 25/54/59 Arms Act, P.S. Chheharta, Amritsar are pending against accused Abhishek Rai.*

7. *Compromise effected between the parties is genuine, voluntarily, without any coercion and out of their free will. Hence, proper compliance has been made of the order of Hon'ble High Court of Punjab & Haryana as stated above. The requisite report is presented in this regard. Hence, the report is presented in the regard for kind perusal of your good self and for further proceedings.*

- x - x - ”

A perusal of the said report would show that statements of all the concerned persons have been recorded in the case, who have stated that the matter has been compromised and further respondents No.2 and 3 have endorsed their no objection in case the FIR in question is quashed qua the petitioners. It has been further stated that the compromise arrived at between them is genuine, voluntary and without any pressure.

Learned counsel for the petitioners submits that the petitioners were falsely implicated in this FIR (Annexure P-1) and while referring to order dated 16.11.2021 (Annexure P-3), passed by the Principal Magistrate, Juvenile Justice Board, Amritsar, it is stated that the juvenile involved in this case has confessed his crime and he stands convicted and sentenced

accordingly. Learned counsel for the petitioners further submits that

petitioners are innocent and they have further amicably settled the issues with respondents No.2 and 3.

Learned counsel for respondents No.2 and 3 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the parties.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR in question.

I have heard learned counsel for the parties and have perused the file.

In ***Shakuntala Sawhney v. Kaushalya Sawhney, (1979) 3 SCR 639, at P 642***, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

*“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-dominantly 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 personnel 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.”*

Still further, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of '**Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another**' (2017) 9 SCC 641', the same are extracted as under:

*“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions:*

*16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;*

*16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.*

*16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;*

*16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;*

*16.5 The decision as to whether a complaint or First*

*Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;*

*16.6 In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;*

*16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;*

*16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;*

*16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and*

**16.***There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere*

*dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”*

Having appraised the aforementioned parameters and weighing upon the peculiar facts and circumstances of the instant case, this Court is inclined to invoke powers under Section 482 Cr.P.C. to quash the criminal proceedings for the following reasons:

- (i) The main accused (juvenile) confessed his crime and he was convicted and sentenced by the Juvenile Justice Board, Amritsar, vide order dated 16.11.2021 (Annexure P-3) and involvement of petitioners in the alleged occurrence *prima facie* appears to be a result of misunderstanding between the parties.
- (ii) Since the parties are residents of the same area/town, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.
- (iii) The parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute.

- (iv) The complainants are not likely to support the case of the prosecution. Continuation of the proceedings is likely to be a waste of judicial time.
- (v) The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.
- (vi) The grievances having been resolved, no interest of justice would be served by forcing the petitioners to undergo rigours of criminal proceedings.
- (vii) The quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.
- (viii) The cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the petitioners.

Accordingly, this petition is allowed. FIR No.25 dated 07.02.2020 (Annexure P-1), under Section 323, 324 and 326 IPC read with Section 34 IPC & Section 25 of the Arms Act, registered at Police Station Chheharta, Amritsar and all the consequent proceedings arising therefrom, are quashed qua the petitioners. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioners with the

amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

All pending application(s), if any, shall stand disposed of.

**12.01.2023**

*Apurva*

**(HARSH BUNGER)  
JUDGE**

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No