

220 (3rd case)

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

**CRM-M-32403-2023 (O&M)
Date of decision: 24.11.2023**

Surinder Kumar

... Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Nishant, Advocate for
Mr. Rajat Dogra, Advocate for the petitioner.

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

Mr. Karanjeet Singh Brar, Advocate for respondent Nos.2 to 5.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of Rapat No.39 dated 20.12.2018 (P-1), under Sections 324, 379-B, 323, 148 read with Section 149 of the Indian Penal Code, 1860 (Section 326, IPC added later on), registered at Police Station, Guruharsahai, District Ferozepur, recorded in FIR No.238 dated 20.12.2018 (P-2), along with all consequential proceedings arising therefrom on the basis of compromise dated 21.06.2021 (P-3), entered into between the parties i.e. petitioner as well as private respondent(s).

(2) Above *Rapat* was registered on the basis of statement made by respondent No.2-Nasib Kumar with the allegations that on 19.12.2018 at about 1:30 p.m., he and his nephew-Vijay Kumar along with others were returning after filling the nomination Form of his wife for the post of *Sarpanch*. Petitioner, along with other co-accused, armed with *Dangs*, *Sotas* & iron rods, came there and inflicted various injuries to the complainant party. On raising alarm, all accused decamped with their respective weapons. Meanwhile, Surinder Kumar @ Sonu (petitioner) snatched purse, containing Rs.1000/-, from the complainant.

(3) This Court, while issuing notice of motion on 11.08.2023, passed the following order:-

“Contends, inter alia, that matter has been compromised between the parties.

(2) Notice of motion.

(3) On asking of the Court, Mr. Joginder Pal Ratra, DAG, Punjab accepts notice on behalf of respondent No.1/State.

(4) Mr. Sarthak Jindal, Advocate, who is present in the Court, has filed power of attorney on behalf of respondent Nos.2 to 5. The same is taken on record. He acknowledged the factum of compromise by way of affidavit dated 21.06.2021 (P-3) arrived at between the parties at their own level.

(5) Requisite number of copies of the petition be supplied to learned Counsel for the respondents during the course of day.

(6) Petitioner shall file his affidavit that there is no other criminal case(s) pending against him and also give the details of any other FIR(s), already quashed on the basis of compromise.

(7) In view of the above, let parties appear before the Court of learned Illaqa Magistrate/trial Court on 28.08.2023 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(8) Learned Illaqa Magistrate/trial Court shall record the statement(s) of all accused, complainant/injured and victim, if any, and submit a report to this Court before the next date of hearing containing the following information:-

(i). Whether the statements of the parties are bona fide and not result of any pressure or coercion etc. in any manner?

(ii). *Whether the compromise effected between the parties is genuine and valid?*

(iii). *Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?*

(iv). *Whether any other case is pending against either of the parties or not, if yes, the details thereof?*

(v). *Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?*

(vi). *Whether any of the petitioner(s) is/are previous convict or not?*

(9) *List before this Court on 20.09.2023 for further consideration.*

(10) *Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection?*

(11) *Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance.*

(12) *To be heard along with CRM-M-33073-2021."*

(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 11.09.2023. 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 petitioner/accused Surinder Kumar son of Manohar Lal, resident of Basti Jhawla, Tehsil Guruharsahai, District Ferozepur and complainant/respondent no.2 to 5 namely Nasib Kumar son of Sant Ram, Vijay Kumar son of Ramesh Kumar, Ramandeep son of Mohan Lal and Sunita Rani wife of Vijay Kumar, all residents of village Jhawla, Tehsil Guruharsahai, District Ferozepur was bonafide and without any pressure or coercion from any manner. It is further respectfully submitted that compromise effected between the parties is genuine, voluntarily and valid. It is further respectfully submitted that in the present compromise, accused namely Surinder Kumar son of Manohar Lal and all the complainant/injured namely Nasib Kumar son of Sant Ram, Vijay Kumar son of Ramesh Kumar, Ramandeep son of Mohan Lal and Sunita Rani wife of Vijay

Kumar, all residents of village Jhawla. Tehsil Gurusahai, District Ferozepur are party to the present compromise. It is further respectfully submitted that Mangat Ram son of Madan Lal, Neelam Rani wife of Mangat Ram, Malika Rani @ Neelam Rani wife of Sanjiv Kumar, Harsh @Arsh Bindra son of Mangat Ram and Seeta Rani wife of Madan Lal appeared in the court on 29.05.2023 and suffered statement with regard to compromise as per order dated 28.04.2023 passed by Hon'ble High Court in CRM-M-33075- 2021. It is further submitted that as per the statements recorded in the court, no other case is pending against either of the parties. It is further respectfully submitted that none of the persons involved in the present case/dispute has been declared proclaimed offender. It is further respectfully submitted that accused/petitioner is not previous convict.”

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioner as well as private respondents 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 *Rapat* as well as consequential proceedings are quashed on the basis of the compromise effected between the parties.

(7) Learned Counsel for the private respondents 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 predominately 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 *Rapat* along with all consequential proceedings resulting therefrom are quashed qua the petitioner. However, as a deterrence for the future, petitioner shall bear costs of Rs. 5,000/-. 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