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119 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-38610-2022 (O&M)
Date of decision : 17.11.2023

Kawalsher Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Sanjeev Kumar Banga, Advocate,
for the petitioners.

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

Mr. Aman Saini, Advocate, for
Mr. Saurabh Garg, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.191 dated 21.07.2022 (P-1), under Sections 379, 427, 447, 506 and 34 of the Indian Penal Code, 1860, registered at Police Station Jandiala, District Amritsar Rural, along with all consequential proceedings arising therefrom on the basis of compromise dated 29.07.2022 (P-2) and affidavit (P-2), entered into between the parties i.e. petitioners as well as respondent No.2.

2. Allegations are that petitioners, along with some unidentified persons, have demolished the wall of their house. Besides this, they have stolen some articles and threatened to kill the complainant.

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3. This Court, while issuing notice of motion on the previous date of hearing i.e. 12.10.2023, passed the following order:-

“Application for directing the parties to record their statements in furtherance of compromise deed dated 29.07.2022, effected between the parties.

(2) Notice of the application to the non-applicants.

(3) Mr. Joginder Pal Ratra, Sr. DAG, Punjab, accepts notice on behalf of the respondent No.1-State; whereas, Mr. Sanjeev Kumar Banga, Advocate, for Mr. Saurabh Garg, Advocate, accepts notice for respondent No.2 and raise no objection against the prayer made.

(4) In view of the above and for the reasons stated in the application, same is allowed as prayed for, subject to all just exceptions.

(5) As a result thereof, let parties appear before the Court of learned Illaqa Magistrate/trial Court on 30.10.2023 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(6) 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?

(7) Petitioners shall also file their respective affidavits that there is no other criminal case(s) pending against them and also give the details of any other FIR(s), already quashed on the basis of compromise.

(8) List before this Court on 15.11.2023, i.e the date already fixed in the main case.

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

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

4. In terms of aforesaid order, statements of both the parties were recorded and a report dated 07.11.2023 has been submitted in this regard by learned Judicial Magistrate Ist Class, Amritsar. The operative part of the same reads as under:-

“1. The compromise of the parties is bonafide and is not the result of any pressure or coercion of any manner.

2. The compromise effected between the parties is genuine and vaild.

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3. There is one complainant/injured in this case namely Rewel Singh. There are two accused namely Kawalsher Singh and Major Singh, while two unknown persons have also been arrayed as accused. Both the named accused and the complainant/injured are part to the compromise.

4. No other case is pending against either of the parties as per the statements of the parties and the statement of the Investigating Officer.

5. None of the persons involved in this case/dispute has been declared as a proclaimed offender.

6. None of the accused of present case is a previous convict.”

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no objection by either of the parties against the compromise.

6. Learned State Counsel, on instructions from the police officer present in the Court, 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. The Hon’ble Supreme Court in **Gian Singh v. 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

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question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not affect public peace or tranquility. 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.

9. 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 is burdened with costs of Rs.10,000/- (Rs.5,000/- each). Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.

17.11.2023

adhikari

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :

Yes

No

Whether Reportable :

Yes

No