

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**274****CRM-M No.42482 of 2022****Date of Decision : 16.08.2023**

Malkit Singh and Others

....Petitioners

VERSUS

State of Punjab and Another

....Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. G.S. Sirphikhi, Advocate for the petitioners.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

Mr. Vishal Sodhi, Advocate for respondent No.2.

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.84 dated 05.11.2018 registered under Sections 354, 447, 511, 427, 506 and 34 of the Indian Penal Code, 1860 at Police Station Sekhwan, Police District Batala, and all subsequent proceedings arising out of the said FIR *qua* the present petitioners, on the basis of compromise dated 18.07.2022 (Annexure P-2).

2. On 15.09.2022 the following order was passed :

“Notice of motion.

Mr.Navneet Singh, Sr. DAG, Punjab and Mr.Jitesh

Garg, Advocate, accept notice on behalf of respondent

No.1 and respondent No.2 respectively.

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.84 dated 05.11.2018 registered under Sections 354, 447, 511, 427, 506 and 34 IPC at Police Station Sekhwan, Police District Batala on the strength of a written agreement/compromise Annexure P-2 entered into between the parties.

The petitioners as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 30.09.2022 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 16.02.2023.”

3. Pursuant to the order dated 15.09.2022, a report dated 15.11.2022 of the Judicial Magistrate Ist Class, Batala has been received by this Court wherein it has been stated that the statements of three petitioners/accused as well as that of the complainant have been recorded and as per the report, the parties have stated that they have compromised the matter voluntarily without any coercion or undue influence and that the complainant/respondent No.2 has no objection to the quashing of the present FIR *qua* the present petitioners. Statements of the parties have also been appended with the report.

4. Learned counsel for the petitioners has relied upon judgment of Hon’ble Supreme Court in case of **Jayrajsinh Digvijaysinh Rana vs. State of Gujarat and Another**, [2012 (12) SCC 401] to contend that where there is a partial compromise with some of the accused then the proceedings against the said accused can be quashed since there would be a very remote possibility of conviction.

5. Learned counsel for respondent No.2 has reiterated that the parties have voluntarily entered into a compromise and that he would have no objection if the present FIR is quashed.

6. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr.** [2012 (10) SCC 303] 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-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.”

7. 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.

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 and in view of the law laid down in the matter of **Jayrajsinh Digvijaysinh Rana** (*supra*), where partial quashing of the FIR *qua* the petitioners/accused therein was permitted, it would not be in the interest of justice to continue with the criminal proceedings.

9. Resultantly, FIR No.84 dated 05.11.2018 registered under Sections 354, 447, 511, 427, 506 and 34 of the Indian Penal Code, 1860 at Police Station Sekhwan, Police District Batala, is quashed only *qua* the present petitioners, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 18.07.2022 (Annexure P-2).

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

(ALKA SARIN)
JUDGE

16.08.2023
jk

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