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297 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-37631-2023 (O&M)
Date of decision : 14.11.2023

Kulwinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present : Mr. Navinder Jit Singh Dandiwal, Advocate,
for the petitioner.

Mr. C.L.Pawar, Additional Advocate General, Punjab,
assisted by ASI Harjinder Singh,
for respondent No.1.

Mr. Kulbir Singh Saini, 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.103 dated 15.06.2023 (P-1), under Sections 379, 430, 451 and 506 of the Indian Penal Code, 1860, and Section 3 of the Prevention of Damage to Public Property Act, 1984, registered at Police Station Bagahpurana, District Moga, along with all consequential proceedings arising therefrom on the basis of compromise dated 28.07.2023 (P-2), entered into between the parties i.e. petitioner as well as respondent No.2.

2. Allegations are that petitioner, along with some unidentified persons, has tried to damage the passage and also demolished the

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watercourse. Besides this, he has stolen some bricks and threatened to kill the complainant.

3. This Court, while issuing notice of motion on the previous date of hearing i.e. 03.08.2023, 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. Jaiteshwar S. Bhandari, AAG, Punjab accepts notice on behalf of respondent No.1/State.

(4) Mr. Kulbir Singh Saini, Advocate, who is present in the Court, has filed power of attorney on behalf of respondent No.2. The same is taken on record. He acknowledged the factum of compromise dated 28.07.2023 (P-2) 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 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 31.08.2023 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 26.09.2023 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.”*

4. In terms of aforesaid order, statements of both the parties were recorded and a report dated 30.10.2023 has been submitted in this regard by

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learned Sub-Divisional Judicial Magistrate, Baghapurana. The operative part of the same reads as under:-

“The above statements of parties have been recorded in presence of their counsels. So, I am satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. Copies of statements of parties have been attached with this report.”

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

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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 petitioner. However, as a deterrence for the future, petitioner is burdened with costs of Rs.10,000/-. Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.

14.11.2023
adhikari

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No