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

CRM-M-34218-2019 (O&M)

Date of Decision: 09.01.2023

HARPAL SINGH

....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Munish Puri, Advocate
for the petitioner.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Ms. Deepti Rampal, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.7 dated 03.02.2018, under Sections 452, 323 and 201 of Indian Penal Code registered at Police Station Taragarh, District Pathankot (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 07.08.2019 (Annexure P-2) arrived at between the parties.

Vide order dated 22.08.2019, the Illaqa Magistrate/trial Court 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 First Class, Pathankot has submitted its report, vide letter dated 23.10.2019 which indicates that the parties appeared before the Magistrate and got recorded

their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. Relevant extract of the said report is reproduced as under:-

“Complainant Balkar Singh S/o Baldev Singh R/o Village Khiala, Tehsil and District Pathankot along with counsel Sh. Jagjit Singh, Advocate stated that:

I have entered into compromise, on the intervention of the respectables, with the accused in the criminal case FIR no. 7 dated 03.02.2018 under Section 452,201(added later on) and 323 of IPC, PS Taragarh and I have no objection if the FIR and the proceedings pending are quashed. The said compromise is genuine and has been entered without any coercion or undue influence.”

On the other hand, accused Harpal Singh S/o Darshan Singh R/o Village Khiala, Tehsil and District Pathankot along with counsel Sh. Y.S. Thakur, Advocate, turned up and suffered separate statements that:

"I have entered into compromise with the complainant/Injured, on the intervention of the respectables, in the criminal case FIR no. 7 dated 03.02.2018 under Section 452,201(added later on) and 323 of IPC, P.S Taragarh and will remain bound by the terms and conditions of the compromise. The said compromise is genuine and has been entered without any coercion or undue influence.

" ASI Sanjeev Kumar, No. 1271/Ptk, the Investigating officer in the present FIR case also came present before court and suffered Statement that:

"I was the Investigating officer in the present FIR Case. There are only one complainant and one accused in the FIR no. 7 dated 03.02.2018 under Section 452,201(added later on) and 323 of IPC.

"Statements were got recorded by the accused as well as complainant voluntarily and the parties do not want to litigate

any further. I am satisfied that both the parties got recorded their statements voluntarily with regard to the compromise, without any coercion or undue influence.

In FIR no. 7 dated 03.02.2018 under Section 452,201(added later on) and 323 of IPC no person other than mentioned above has been arrayed as accused.

No person in the FIR no. 7 dated 03.02.2018 under Section 452, 201 (added later on) and 323 of IPC has been declared proclaimed offender.”

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 they have no objection in case the FIR in question is quashed. They have further stated that the said compromise was entered into voluntarily and without any pressure.

Learned counsel for respondent No.2 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 about 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 the learned counsel for the parties and have perused the file.

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.”

In ***Shakuntala Sawhney Vs. 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.

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

16.10 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 afore-stated 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 alleged occurrence prima facie appears to be a result of some misunderstanding between the parties.
- ii. The petitioner does not suffer any criminal antecedents and is not involved in any other case.
- iii. The FIR in this case dates back to the year 2018 and there is nothing on record to show that either before or after the purported compromise, any untoward incident transpired between the parties;
- iv. 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 disputes;
- v. The complainant is not likely to support the case of the prosecution. Continuation of the proceedings is likely to be a waste of judicial time.
- vi. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.
- vii. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigours of criminal proceedings.
- viii. Since the Petitioner and the complainan 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.

ix. 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 Petitioner.

For the reasons stated above, this petition is allowed. FIR No.7 dated 03.02.2018, under Sections 452, 323 and 201 of Indian Penal Code registered at Police Station Taragarh, District Pathankot (Annexure P-1) and all the consequent proceedings arising therefrom, are quashed qua the petitioner on the basis of compromise dated 07.08.2019 (Annexure P-2) entered into between the parties. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the **“Poor Patients Welfare Fund, PGIMER, Chandigarh”** and the said 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.

09.01.2023

Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether reportable:

Yes/No