

251

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

**CRM-M-37773-2019
Date of Decision: 08.02.2023**

Rakesh Arora

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. N.S. Minhas, Advocate
for the petitioner.

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

Ms. Ritika Garg, Advocate
for respondent No.2.

HARSH BUNGER J. (ORAL)

Present petition under Section 482 Cr.P.C. is filed for quashing of FIR No.62 dated 22.10.2018 (Annexure P-1), under Sections 406 and 420 IPC, registered at Police Station City Morinda, District Rupnagar, along with all consequential proceedings arising therefrom on the basis of compromise dated 09.08.2019 (Annexure P-2).

Vide order dated 29.10.2022, the trial Court/Illaq Magistrate was directed to record the statements of the parties with regard to the compromise.

In compliance thereof, the Judicial Magistrate Ist Class, Rupnagar, has submitted a consolidated report, accompanied by copies of statements of all the concerned parties as well as Investigating Officer, vide

letter dated 21.12.2022, 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 with free will and consent. Relevant extract of the said report is reproduced as under:

“ - x - x - x -

From the statements of parties got recorded by them on 17.11.2022 in the Court, it appears that parties have effected compromise with their own sweet will, voluntarily, without any pressure and coercion in any manner. The point wise Report of this Court, as sought by Hon'ble Court is as under:

(i) There is only one accused, namely, Rakesh Arora son of Davinderpal Arora and he has appeared before the Court and made statement on 17.11.2022 and no accused has ever been declared as proclaimed offender in this case.

(ii) Complainant, namely, Bahadur Singh son of Amar Singh, R/o Village Madoli Kalan, Tehsil Sri Chamkaur Sahib, District Rupnagar appeared and made his statement in support of the compromise on 17.11.2022.

(iii) Challan is yet to be presented, however, investigation is complete (as per I.O.).

(iv) The compromise appears to be genuine, voluntarily and without any coercion or undue influence.

- x - x - x - ”

A perusal of the said report would show that statements of 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

arrived at between them is genuine, voluntary and without any pressure.

Learned State counsel does not raise any serious dispute regarding quashing of the FIR in question.

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 out peace and amity between the parties.

I have heard learned counsel for the parties and perused the file.

Hon'ble Apex Court in the case of “**Gian Singh Vs. 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 predominatingly 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.”

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.

It is pertinent to mention here that even otherwise, offences punishable under Sections 406 and 420 IPC are compoundable under the provisions of Section 320 Cr.P.C.

Considering the entire facts, compromise arrived at between the parties, statements of the parties recorded before the Illaqa Magistrate/Trial Court and also report dated 21.12.2022, submitted by the Judicial Magistrate Ist Class, Rupnagar, since the parties have arrived at a compromise by amicably settling their disputes and have decided to live in peace, no useful purpose will be served in allowing the criminal proceedings to continue.

Further, in the light of the abovementioned judicial precedents, when the parties have entered into a compromise then continuation of the proceedings would be mere an abuse of process of the Court.

In order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, I am of the considered view that it would be in fitness of things to quash the proceedings on the basis of compromise and by quashing the FIR while accepting the prayer of the petitioner, would be securing the ends of justice.

Accordingly, this petition is allowed. FIR No.62 dated 22.10.2018 (Annexure P-1), under Sections 406 and 420 IPC, registered at Police Station City Morinda, District Rupnagar and all the consequent proceedings arising therefrom, are quashed qua the petitioner. 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 the 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.

08.02.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No