

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Date of decision : January 06, 2023

1. CRM-M-49361-2021

MAHINDER SINGH AND OTHERSPETITIONERS
VERSUS

STATE OF PUNJAB AND OTHERSRESPONDENTS

2. CRM-M-49362-2021

BALWANT SINGH AND OTHERSPETITIONERS
VERSUS

STATE OF PUNJAB AND ANRRESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Mr. Amandeep Singh Manaise, Advocate for the
petitioners in CRM-M-49361-2021 and
for respondent no. 2 in CRM-M-49362-2021

Mr. C.L. Pawar, Addl. Advocate General, Punjab

Ms. Geeta Singhwal, Advocate for the petitioners
in CRM-M-49362-2021 and for respondents
No. 2 to 6 in CRM-M-49361-2021.

KULDEEP TIWARI, J. (ORAL)

Both the aforesaid petitions are arising out of one and
the same incident regarding which one FIR and one cross case was

registered and therefore, both the petitions are being taken up together for disposal.

Two petitions have been filed for quashing of FIR and cross case registered therein on the ground that the matter has now been compromised between the parties. CRM-M-49361-2021 has been filed for quashing of FIR No. 87 dated 13.7.2020, under Sections 323, 324, 452, 506, 148, 149 IPC, registered at Police Station Rangar Nangal, Police District Batala, District Gurdaspur against the petitioners therein, on the complaint of complainant-respondent no. 2 and CRM-M-49362-2021 has been filed for quashing of cross case/Rapat No. 19 dated 16.7.2020, under Sections 326, 323, 324, 506, 148, 149 IPC, Police Station Rangar Nangal, Police District Batala, District Gurdaspur registered in aforesaid FIR No. 87 against the petitioners therein, on the complaint of complainant-respondent no. 2.

It has been averred that one Balwant Singh complainant got registered the present FIR (Annexure P/1) alleging that the injuries have been caused by the accused persons. On the other hand, cross case was got registered by one Chamkaur Singh alleging that they also received injuries in this incident at the hands of opposite party. The fight between both the sides took place on 11.7.2020 at about 7.30 PM after a minor altercation in the evening

at the bank of river. Both the parties belong to same village and now with the intervention of the respectables, they have settled the dispute amicably. Vide order dated 25.11.2021, both the parties were directed to get their statements recorded before the learned Illaqa Magistrate and the Magistrate was directed to submit report containing the following information:-

- “1. Number of persons arrayed as accused in the FIR,*
- 2. Whether any accused is a proclaimed offender,*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence,*
- 4. Whether the accused persons are involved in any other FIR or not, and*
- 5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.”*

In compliance with the aforesaid order, both the parties put in appearance before the Illaqa Magistrate and got recorded their statements, who after conducting the inquiry, submitted the report dated 27.1.2022 stating that the compromise effected between the parties is genuine and not the result of any pressure or coercion and that the parties are not involved in any other criminal case. It is further stated in the report that neither any of the accused

persons has been declared as proclaimed offender nor any P.O. proceedings were pending against them.

Learned counsel for the petitioners has placed reliance upon a judgment passed by the Hon'ble Supreme Court in **Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543**, in which it was held as under:-

“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 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.”

Learned counsel for the petitioners has further placed reliance upon a judgment passed by the Hon'ble Supreme Court in **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017 AIR (SC) 4843**, in which it was held as under:-

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) 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;

(ii) 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.

(iii) 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;

(iv) 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;

(v) 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;

(vi) 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;

(vii) 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;

(viii) 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;

(ix) 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

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) 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.”

In the light of the satisfaction shown by the Illaqa Magistrate and in order to maintain the peaceful atmosphere of the society and to meet the ends of justice, it is required to give both the parties, who are co-villagers, another chance to live peacefully. Therefore, both the petitions are allowed, resultantly FIR No. 87 dated 13.7.2020, under Sections 323, 324, 452, 506, 148, 149 IPC, registered at Police Station Rangar Nangal, Police District Batala, District Gurdaspur and cross case/Rapat No. 19 dated 16.7.2020, under Sections 326, 323, 324, 506, 148, 149 IPC, Police Station Rangar Nangal, Police District Batala, District Gurdaspur registered in aforesaid FIR No. 87 and all consequent proceedings arising thereof are quashed.

Both the petitions stand allowed.

A photocopy of this order be placed in the file of
connected petition.

January 06, 2023

(KULDEEP TIWARI)
JUDGE

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Whether speaking/reasoned ?
Whether Reportable ?

Yes/No
Yes/No