

CRM-973-2023 in/and
CRM-M-46877-2022

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

CRM-973-2023 in/and
CRM-M-46877-2022
Date of Decision: 23.01.2023

Dilbagh Singh Dhillon

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Ms. Vibha Dhiman, Advocate
for the petitioner.

Mr. Ram Kumar Singla, DAG, Haryana
for respondent No.1/State.

Mr. Kapil Khanna, Advocate
for respondent No.2.

HARSH BUNGER J. (ORAL)

CRM-973-2023:

Present application is filed for placing on record the affidavit of
respondent No.2-Aditya as Annexure A-1.

For the reasons mentioned in the application, affidavit dated
07.01.2023 of respondent No.2, namely Aditya, is taken on record as
Annexure A-1, subject to all just exceptions.

Application is accordingly disposed of.

CRM-M-46877-2022:

Present petition under Section 482 Cr.P.C. is filed for quashing of FIR No.440 dated 05.08.2020 (Annexure P-1), under Sections 370, 384, 406 & 420 IPC and Section 24 of the Immigration Act, registered at Police Station City Karnal and all consequential proceedings arising therefrom on the basis of Settlement/Agreement dated 27.09.2022 (Annexure P-2).

Relevant clauses of the aforesaid Settlement/Agreement (Annexure P-2) reads as under:-

“1. Today this settlement is being made in case FIR No.440 dated 05.08.2020 u/s 406, 420, 370 & 384 IPC read with S.24 of Immigration Act registered at Police Station City, Karnal as per the terms and conditions dictated by the respective parties.

2. The parties have voluntarily arrived at an amicable solution thereby resolving their all disputes and differences amongst themselves for all times to come.

3. This dispute pertains to the money party no.2 has been alleged to have taken from party no.1 on the pretext of getting him immigration abroad.

4. After discussing the matter, the parties have decided to amicably settle the dispute and the terms and conditions for the same are being reduced in writing as under:-

i) That party No.1 has voluntarily and willingly agreed to accept an amount of Rs.2,00,000/- (Rupees Two Lakhs) as full and final settlement of the entire dispute. Out of the said amount, the party No.1 has already taken a token amount of Rs.10,000/- by way of cheque bearing No.594652 dated 09.09.2022 of SBI, Rajpura Town Branch from party No.2 for having arrived at this settlement agreement.

ii) That party No.2 shall file quashing petition on the basis of this present compromise in the Hon'ble High

Court of Punjab and Haryana at Chandigarh within 15 days from the signing of this settlement/agreement.

iii) That party No.1 in lieu of amount of Rs.2,00,000/- (Two Lakhs Only) undertakes to appear and give statement/affidavit before the concerned Court for quashing of the FIR No.440 dated 05.08.2020 that party No.1 had got registered at PS Karnal City against party No.2.

iv) That at the time of giving statement by party No.1 for quashing of the FIR, party No.2 shall hand over the remaining amount of Rs.1,90,000/- (One Lakh Ninety Thousand Rupees Only) to party No.1 by way of Cheque/demand draft.

With the execution of the present compromise, entire dispute between the parties shall stand settled.

5. This compromise has been reached between the parties without any pressure and both the parties have very happily agreed to abide by the terms and conditions of the agreement. Both the parties shall be bound with the terms and conditions of this compromise.

- x - x - ”

Learned counsel for respondent No.2 admits the fact of compromise (Annexure P-2) arrived at between the parties to the instant petition, regarding which, affidavit dated 07.01.2023 of respondent No.2, namely Aditya, is filed before this Court, vide CRM-973-2023, which is already taken on record. The relevant extract of the said affidavit reads as under:

“ - x - x -

2. That with the intervention of respectable person, the matter has been compromised between me and accused person, namely Dilbagh Singh Dhillon as per the

written compromise dated 27.09.2022. Vide the said compromise, I undertake to give statement before the concerned Court for getting the FIR quashed qua him in the quashing petition filed before the Hon'ble High Court of Punjab and Haryana at Chandigarh vide case bearing No. CRM-M-46877-2022.

That if the Hon'ble High Court of Punjab and Haryana at Chandigarh quash the above said FIR, the deponent will not have any objection as the matter has been compromised voluntarily by the deponent with the said accused.”

Accordingly, it is submitted by learned counsel for respondent No.2/complainant that FIR (Annexure P-1) may kindly be quashed only against the petitioner herein and the proceedings may be directed to go on against the other accused in the said FIR.

Learned State counsel refers to paragraph No.2 of Reply dated 17.12.2022 to submit that there are other accused also in this case. The said paragraph No.2 of Reply dated 17.12.2022 reads as under:-

“That after registration of FIR, initially the investigation of the case was conducted by local police of police station City, Karnal and thereafter as per order of senior officer, investigation was entrusted to Special Detective Unit, Karnal, where the investigation of the case was carried out by SI Salinder, who during the course of investigation had recorded the supplementary statement of Aditya S/o Sh. Virender Kumar (complainant) and as per statement section 370/384 of IPC were added in the present case. After collecting sufficient incriminating evidence against accused Ajay Kanwal @ Mindu S/o Rishi Lal was arrested in the present case after seeking permission from the Ld. Illaqa Magistrate, Karnal as he was already in under confinement in case FIR No. 121 dated 15.07.2020 U/S 426/420/506/370/384/120-B of IPC &

24 Immigration Act Police Station Kunjpura, District Karnal. He was produced before the Ld. Illaqa Magistrate, Karnal. He has suffered his disclosure statement by admitting his commission of crime alongwith other co-accused persons Dilbagh Singh Dhillon, Ashwani Kumar and Sarabjit Singh. On 28.10.2020, during investigation bank details of accused Ajay account bearing No. 65075214661 SBI, Branch Sector-13, Karnal was obtained and same was taken into the police possession vide recovery memo. As per his disclosure statement Rs. 18000/- were got recovered from his possession and same were taken into the police possession vide memo. On 18.03.2021, investigation of case was entrusted to SHO Police Station City, Karnal and further investigation was carried out by SI Ankit Kumar, who during the course of investigation had joined Smt. Bala W/o Rishi Lal S/o Rati Ram and Smt. Pinki W/o Shabad Mehla S/o Jit Ram in investigation and their statements were recorded separately. The investigation of the case was also verified by the then DSP, City, karnal and as per investigation no involvement of Pinki and Bala was found in the present case.”

However, learned State counsel does not raise any serious dispute regarding quashing of the FIR in question, only qua petitioner on the basis of compromise.

I have heard learned counsel for the parties and perused the file. After perusing the paper book as well as the affidavit dated 07.01.2023, filed by learned counsel for respondent No.2, it is found that the matter has been amicably settled between the petitioner and respondent No.2. However, it is noticed that the present petition has been filed by Dilbagh Singh Dhillon, who is one of the total three accused, seeking quashing of FIR in question on the basis of compromise (Annexure P-2).

The issue regarding quashing of FIR against one or few of many accused and allowing the proceedings to continue against the other co-accused was subject matter before various Courts on different occasions and considering totality of facts and circumstances, the Courts have permitted quashing of FIR qua some of accused and at the same time, the proceedings have been allowed to continue against other co-accused. Some of the decisions in this regard are as follows:

In “*Jayrajsinh Digvijay Singh Rana v. State of Gujarat*”, **2012(12) SCC 401**; Hon'ble Apex Court quashed the FIR where the compromise was effected by one of the accused with the complainant, by observing as under:

“...In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of

the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.

10. In the light of the principles mentioned above, inasmuch as Respondent No. 2-the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice under Article 142 of the Constitution, we accept the terms of settlement insofar as the appellant herein (Accused No. 3) is concerned.

11. In view of the same, we quash and set aside the impugned FIR No. 45/2011 registered with Sanand Police Station, Ahmedabad for offences punishable under Sections 467, 468, 471, 420 and 120B of Indian Penal Code insofar as the appellant (Accused No. 3) is concerned. The appeal is allowed to the extent mentioned above...”

Partial or part quashing of FIR only qua the accused/offender with whom the complainant has compromised has also been upheld in **“Lovely Salhotra and Anr. v. State, NCT of Delhi”, 2017 (3) R.C.R. (Criminal) 85**, vide judgment dated 10.04.2017, passed by the Hon'ble Apex Court; wherein it was observed to the effect that it could not be held that the FIR cannot be quashed in part where no offence was made out against the accused who sought quashing of the FIR. The observations in paragraphs 3 and 6 of the said verdict of the Apex Court are to the following effect:

"3. We have taken into account the fact of the matter in question as it appears to us that no cognizable offence is made out against the appellant-herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to

have appreciated the fact that the appellants-herein cannot be allowed to suffer on the basis of the complaint filed by Respondent No. 2- herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos.2, 3, 4 and 6 prima facie.

- x - x -

6. *Accordingly, we set aside the order of the High Court and quash the FIR qua the appellants-herein."*

In "**Vijay Kumar Gupta v. State, Government of NCT of Delhi**" in **Crl.M.C. No.2289/2013**, the Delhi High Court made the following observations in paragraph No. 7 thereof:

"7. Looking into the facts and circumstances of the case and the fact that the petitioners have paid the loan/settlement amount to the Respondent No. 2 and nothing remains to be adjudicated further, to remove the hurdle in the personal life of the present petitioners for leading better and peaceful life and to meet the ends of justice, I deem it appropriate to quash the FIR No. 107/2003, under Section 406/420/468/471 Indian Penal Code, 1860, registered at Police Station - Parliament Street, Delhi qua against the petitioners, namely Vijay Kumar Gupta, Raj Kumar Sharma and Vinod Chaudhary only to the extent of their role in commission of the alleged offence."

In "**Sarabjit Singh v. State of Punjab**", 2007(3) RCR (Criminal) 479 (P&H), money was taken by the accused in the said case for sending son of the complainant abroad, but he was sent to some other destination. The complainant had settled the dispute with the petitioner in the said case but not with the other accused, who had also filed the petition in this Court for quashing of the complaint. This Court quashed the complaint qua the petitioner in the said case by making it clear that the proceedings against the other accused would continue.

In “*Gurtej Singh vs. State of Haryana*”, 2010(3) RCR (Criminal) 660 (P&H), it was held as under:

“6. The present dispute is purely personal in nature and the compromise has been arrived at between the petitioner and complainant. The said compromise has been arrived at between the two without any pressure. The complainant has no objection if the said FIR is quashed qua the present petitioner.

7. Taking into account the allegations as well as the statement of the complainant and the matter being totally personal in nature, there is no impediment in the way of this Court to quash the present FIR at least qua the petitioner.

8. Keeping in mind the decisions rendered by this Court in the cases of Parambir Singh Gill, Kulwinder Singh as well as the decision rendered by the Hon'ble Supreme Court in the case of Madan Mohan Abbot (*supra*) as also the facts of the present case, the compromise deserves to be accepted. Thus, it would be in the interest of justice to quash FIR No. 94 dated 03.07.2008 under sections 420, 467, 468, 471, 120B of Indian Penal Code, Police Station Pinjore, District Panchkula as well as further proceedings arising out of the same for keeping peace, harmony as well as to reduce friction in the society qua the petitioner only.

9. Accordingly, the aforesaid FIR and further proceedings arising out of the same are hereby quashed qua the petitioner whereas the proceedings against other accused shall continue...”

Keeping in view the aforementioned position, it is noticed that the present petition, which has been filed by one accused, namely Dilbagh Singh Dhillon, out of the three accused, seeking quashing of FIR in question on the basis of compromise (Annexure P-2); thus, is a case of partial compromise, which is permissible as per the judgments referred above.

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-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 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 v. 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.

Considering the entire facts, compromise arrived at between the parties and affidavit dated 07.01.2023 filed by learned counsel for respondent No.2/complainant, since the parties have arrived at a compromise by amicably settling their disputes, accordingly FIR No.440 dated 05.08.2020 (Annexure P-1), under Sections 370, 384, 406 & 420 IPC and Section 24 of the Immigration Act, registered at Police Station City Karnal and all consequential proceedings arising therefrom, are hereby quashed **qua the petitioner herein only**, however, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner

said amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

It is clarified that the proceedings against other accused shall continue.

Present petition is accordingly disposed of.

All pending application(s), if any, shall stand disposed of.

23.01.2023
Apurva

(HARSH BUNGER)
JUDGE

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