

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

122+287

CRM-46211 and 41254-2023 in/and

CRM-M No.48601 of 2022 (O&M)

DATE OF DECISION: 20th NOVEMBER, 2023

Anil Kapoor and others

.... Petitioners

Versus

State of Punjab and another

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Sandeep Wadhawan, Advocate and
Mr. Suvir Tandon, Advocate for the applicant-petitioners.

Mr. Jaspal Singh Guru, AAG, Punjab with
HC Manjit Singh.

Respondent No.2/Complainant in person with
Mr. Amit Chopra, Advocate.

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RAJBIR SEHRAWAT, J. (Oral)

CRM-46211-2023

This is an application filed by respondent No.2 for placing
on record the Annexure R-6.

For the reasons mentioned in the application, the same is
allowed. Annexure R-6 is taken on record.

CRM-41254-2023

This is an application praying for correction in the head
note, as well as, in the prayer clause of the main petition by adding
offences under Sections 380, 120-B and 201 IPC in the details of the FIR.

Notice in the application was issued on 03.10.2023.

However, no reply to the application has been filed.

For the reasons mentioned in the application, the same is allowed. Sections 380, 120-B and 201 IPC are added in the head note, as well as, prayer clause of the main petition in the details of FIR.

Main Case

1. This petition under Section 482 of the Code of Criminal Procedure has been filed for quashing of FIR No.211 dated 30.10.2021 registered under Section 448 of the Indian Penal Code (for short 'the IPC') (Sections 380, 120-B and 201 IPC added later on) at Police Station E-Division, Amritsar and all other consequential proceedings arising therefrom, including the DDR No.39 dated 05.07.2022 (Annexure P-2), adding offences under Sections 380 and 120-B IPC, on the basis of compromise arrived at between the parties.

2. Vide orders dated 16.01.2023 and 10.04.2023, the parties were directed to appear before the learned trial Court/Illaqa Magistrate, for getting their statements recorded; as to the genuineness of the compromise. In compliance thereof, report of Judicial Magistrate Ist Class, Amritsar dated 03.05.2023, has been received, wherein, it has been noticed that the parties have settled the dispute amicably without any undue influence, coercion or pressure and none of the accused have been declared as proclaimed offender.

3. Affidavit/objection of respondent/complainant filed in the Registry is taken on record. However, as the main case is being disposed of today on the basis of compromise, the respondent/ complainant who is present in the Court submits that affidavit/objection filed by him may be permitted to be withdrawn. Ordered accordingly.

4. Although, after making the statements before the trial Court, the complainant filed an application raising the suspicion that the petitioners might use some cheques alleging the same to have been issued by the complainant from his account; because it appears that the petitioners have taken away the cheques belonging to the complainant, however, learned counsel for the petitioners has submitted that the petitioners do not have any cheque belonging to the complainant. The petitioners has further undertaken that the petitioner No.1, his wife or his children will not use any cheque alleging that the same has been given to them by the complainant, for any reason whatsoever. Learned counsel has also submitted that the petitioners will be bound by this undertaking throughout.

5. The ultimate aim, objective and goal of a legal system is to reconcile the social conflicts. Law is required only to ensure that people do not have to fight with each other just to protect their right to property, right to life and liberty and other rights secured to them by the legal system. The civil disputes are the conflicts between two parties, having lesser overtones for the social order, social harmony or the society as such. Hence absolute freedom is given to the parties to settle their disputes by compromises, of course, coming with certain legal consequences as well. However, the criminal disputes do not necessarily restrict themselves to only two parties to the dispute in terms of their scope, consequences and effect. The criminal acts tend to cast their effect and consequences even upon the society at large. Therefore, the law prescribes punishment, severe punishments and the extreme punishments, including death penalty for criminal acts.

6. However, more often than not the civil disputes or inter-se conflicts of two parties transform themselves into criminal aspect. Therefore, the legal system plays a role to resolve the conflict between two parties; with the added task of ensuring that the adverse impact of dispute on society at large is minimized. But still the core idea is to resolve the conflict between two sides by putting it to rest. Therefore, even the criminal law is required to give due regard to the wishes of the parties to dispute. Recognizing this principle only, the Indian legal System also provides for recognizing the compromise between two sides of a criminal dispute. Section 320 Cr.P.C. is an express provision in this regard. This section not only provides for compounding during the trial, but permits compounding even at appellate or revisional stage. However by its very nature and scope, Section 320 Cr.P.C. cannot be the sole repository; wherein the recognition to a compromise between the parties have; necessarily; to be confined. This section relates only to the offences prescribed under the Indian Penal Code. There are a lot more offences prescribed outside IPC. Even to the offences existing in the IPC new dimensions are added from time to time, making the existing offences to be lighter or stringent and even new modalities of proof of offences are being recognised in view of technological advancement. This necessitates and requires the need for looking beyond Section 320 Cr.P.C. to recognise the compromise between the parties to dispute. But to maintain the sanctity of the procedure prescribed for criminal trial; the Trial Court cannot be permitted to travel beyond the scope prescribed under that procedure. Hence the need for invoking Section 482 Cr.P.C. by the High Court.

7. But, as observed above, the wishes of only parties to the criminal dispute would not always be sufficient to terminate a criminal trial in view of the patent, latent or subtle effect; their conduct would have left qua the society at large. Therefore the offences committed by persons involved in governance or administration for acquiring official power or while exercising office power cannot be permitted to be compromised. Likewise, even the offences involving only two private persons, but reflecting depravity of character or involving causing intentional loss of life or causing intentional loss of property by extending imminent threat of loss of life; cannot be permitted to be compromised. Except the above mentioned grave offences, there is every reason that all other offences should be permitted to be compromised by the Court. Since the proof of offences before the Court, again would involve the conduct of the parties to dispute, therefore if the Court does not permit the same to be compromised then the parties would tend to play tricks upon the Court to ensure the acquittal of accused by subverting the administration of criminal justice. And it is never in the interest of administration of criminal justice to force the citizen to learn and adopt the tricks designed to be played upon Courts to subvert the justice system. So it would always be in the interest of justice itself; that the compromise between the parties is recognized and the citizen remain moored and committed to the essentials of the system of administration of justice, at least, qua those offences, which the interest of society does not permit to be compromised.

8. Hon'ble the Supreme Court has amply clarified the legal position on recognizing compromising in the case of ***Gian Singh Vs.***

State of Punjab and another, 2012(4) RCR (Criminal) 543, and has observed 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 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.”

9. The present case does not fall in anyone of the exceptions envisaged above. Hence, in view of the report of Judicial Magistrate Ist Class, Amritsar dated 03.05.2023, made in pursuance of the orders dated 16.01.2023 and 10.04.2023 passed by this Court, the Court feels that no useful purpose would be served by keeping the proceedings alive. It will

be in the interest of justice, if the settlement reached between the parties is accepted.

10. Accordingly, the present petition is allowed. FIR No.211 dated 30.10.2021 registered under Section 448 of the IPC (Sections 380, 120-B and 201 IPC added later on) at Police Station E-Division, Amritsar and all other consequential proceedings arising therefrom, including the DDR No.39 dated 05.07.2022 (Annexure P-2), adding offences under Sections 380 and 120-B IPC, are hereby quashed qua the present petitioners on the basis of compromise arrived at between the parties.

20th NOVEMBER, 2023
‘sandeep’

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>