

125 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM M-47141-2023

Date of Decision: 05.12.2023

Kirpal Kaur @ Pal Kaur and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Amrindra Pratap Singh, Advocate, for the petitioners.

Mr. C.L. Pawar, Addl.A.G. Punjab.

Mr. V.P. Singh, Advocate for respondent No.3.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.183 dated 30.06.2018(P-4), registered under Section 420 of the Indian Penal Code, 1860 (for short, '*the IPC*') and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 (Amended in 2014) at Police Station City Rajpura, District Patiala along with all consequential proceedings arising therefrom on the basis of compromise dated 14.08.2023(P-5) entered into between the parties i.e. petitioners as well as respondent No.3.

2. Allegations against the petitioners are that they had taken an amount of Rs.4,50,000/- each from complainant as well as his cousin Inderjeet Singh on the pretext of sending them abroad.

3. The Coordinate Bench, while issuing notice of motion, on 19.09.2023, passed the following order:-

"This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing FIR No.183, dated 30.06.2018, registered under Section 420 IPC and Section 13 of The Punjab Prevention of Human Smuggling Act, 2012 (Amended in 2014) at Police Station City Rajpura, District Patiala and all subsequent proceedings arising therefrom on the basis of the compromise dated 14.08.2023, Annexure P-5.

Notice of motion.

On the asking of the Court, Ms. Himani Arora, AAG, Punjab appears and accepts notice on behalf of the respondents-State and Mr. V.P. Singh, Advocate appears on behalf of respondent No.3 and admit that the compromise has been effected between the parties.

In view of the submissions made on behalf of the parties, they are directed to appear before the Illaqa Magistrate for recording their statements qua the compromise within a period of 15 days.

The trial Court/Illaqa Magistrate is directed to record the statements of the parties and submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is 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?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

Adjourned to 14.11.2023.”

4. In terms of aforesaid order, the statements of both the parties were recorded and a report dated 11.10.2023 has been submitted by learned Sub Divisional Judicial Magistrate, Rajpura. The operative part of the same reads as under:-

"1. Five persons namely Gurcharan Singh son of Diwan Singh(since died), Kirpal Kaur wife of Gurcharan Singh, Narinder Kaur w/o Sukhwinder Singh, Sukhwinder Singh son of Gurcharan Singh all residents of House No.258, Gali No.1, Vikas Nagar, Rajpura, Distt. Patiala and Agent Jai Kumar resident of New Delhi are arrayed as accused in this case.

2. None of the accused has been declared proclaimed offender.

3. In view of statements of both the parties, compromise arrived at between the parties (except accused Jai Kumar) appears to be genuine, voluntary and without any coercion or undue influence.

4. In view of statement of Investigating Officer of present case accused persons are not involved in any other case.

5. In view of statement of SI Narpinderpal Singh-94/Patiala, Investigating Officer of present case there is only one complainant/victim namely Davinder Singh s/o Jarnail Singh r/o H.No.268, Gali No.02, Vikas Nagar, Rajpura in the present FIR/case.”

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no objection by either of the parties against the compromise.

6. Learned State Counsel, on instructions from the police official present in the Court, also submitted that they have no objection in case the aforesaid FIR as well as consequential proceedings are quashed on the basis of the compromise effected between the parties.

7. Hon'ble the Supreme Court in Gian Singh v. State of Punjab, (2012) 10 SCC 303, has hel as under:-

“61. 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 FIR may be exercised where the offender and the 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 a serious impact on society. Similarly, any compromise between the victim and the offender in relation to the offences under special statutes like the 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 a 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, the High Court may quash the criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the wrongdoer and whether to secure the ends of justice, it is appropriate that the criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

8. In view of the above, this Court is fully convinced that the offence is entirely personal in nature and does not involve public funds. Thus, quashing of the FIR in question along with consequential proceedings, on the basis of compromise would bring peace and harmony to secure the ends of justice.

9. Consequently, present petition is allowed; aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioners. However, as a deterrence for the future, petitioners are burdened with costs of Rs.60,000/-(Rs.20,000/- each). Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.

05.12.2023

(MAHABIR SINGH SINDHU)
JUDGE

Anjal

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No