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

CRM-M-53199-2021

Date of Decision: 15.02.2023

Saif Ali @ Saifu

....Petitioner

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Narinder S Lucky, Advocate
for the petitioner.

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

Mr. Arshdeep Singh Brar, Advocate for
Ms. Gargi, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.21 dated 10.02.2021, registered under Sections 323, 324, 341, 506, 148 and 149 of Indian Penal Code, 1860, (Section 326 of IPC added later on), registered at Police Station Dasuya, District Hoshiarpur (Annexure P-1) and all the consequent proceedings arising therefrom on the basis of compromise dated 28.08.2021 (Annexure P-3) arrived at between the parties.

Vide order dated 18.07.2022 passed by a Co-ordinate Bench of this Court, the Illaqa Magistrate/trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Sub-Divisional Judicial Magistrate,

Dasuya has submitted a consolidated report, vide letter dated 30.01.2023

which indicates that the parties appeared before the Sub-Divisional Judicial Magistrate, Dasuya 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:-

“ In compliance to the aforesaid order passed by the Hon'ble Punjab and Haryana High Court in CRM-M-53199-2021 it is respectfully submitted that the point wise report of undersigned is as follows:-

(i) As per the statement of I.O. ASI Sikander and record, there are six persons arrayed as accused in the present FIR i.e, one present accused/petitioner Saif Ali alias Saifu and other five persons i.e. Sarajdeen alias Saraju, Jangu and other three unknown persons. It is further submitted that Investigating Officer stated that accused Sarajdeen alias Saraju and Jangu have been declared innocent after conducting inquiry by DSP Munish Kumar, Dasuya dated 20.03.2021 and other three unknown persons were not impleaded as accused in the present FIR on the confessional statement of the present petitioner/accused Saif Ali alias Saifu.

(ii) As per statement of I.O. ASI Sakinder Singh and record, except the complainant there is no other person is complainant or affected/aggrieved party in the present FIR.

(iii) As per the statement of I.O. ASI Sakinder Singh and record none of the accused of the present FIR have declared proclaimed offender nor P.O. proceeding is pending against the accused persons.

(iv) In view of the statement recorded by both the parties, this court is satisfied that the compromise effected between them is genuine, which is not the result of any pressure or coercion.”

A perusal of the said report shows that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and the complainant has further endorsed his

no objection in case the FIR in question is quashed. They have further stated that the compromise arrived at between them is genuine, voluntary and without any pressure.

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 concerned persons and would help in bringing out peace and amity between the parties.

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

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

In *Shakuntala Sawhney Vs. 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.

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-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 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.”

Still further, the broad principles for exercising the powers

under Section 482 were summarized by the Hon'ble Supreme Court in the matter of '*Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another*' (2017) 9 SCC 641', the same are extracted as under:

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

16.1 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;

16.2 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.

16.3 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;

16.4 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;

16.5 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;

16.6 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;

16.7 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;

16.8 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;

16.9 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

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 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.”

Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the instant case, this court is inclined to invoke powers under Section 482 Cr.P.C. to quash the criminal proceedings for the following reasons:

1. The alleged occurrence prima facie appears to be a result of misunderstanding between the parties on account of heated exchange of words between wife of complainant and wife of brother of complainant namely Junna; which resulted in injuries to complainant.
2. The petitioner does not suffer any criminal antecedents and is not involved in any other case.
3. The FIR in this case dates back to the year 2021 whereas compromise was effected on 28.08.2021 and there is nothing on record to show that either before or after the purported compromise, any untoward incident transpired between the

parties;

4. The parties are related to each other and they on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);
5. The complainant is not likely to support the case of the prosecution and continuation of the proceedings is likely to be a waste of judicial time.
6. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.
7. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigours of criminal proceedings.
8. Since the Petitioner and the complainant(s) are residents of the same area, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.
9. The cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Petitioner.

Accordingly, this petition is allowed. FIR No.21 dated 10.02.2021, registered under Sections 323, 324, 341, 506, 148 and 149 of Indian Penal Code, 1860, (Section 326 of IPC added later on), registered at

Police Station Dasuya, District Hoshiarpur (Annexure P-1) 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 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.

15.02.2023
Himani

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No