

CRM-M-53543-2021(O&M)

1

258

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-53543-2021 (O&M)
Date of decision : 08.08.2023

Gaurav Behal and Anr. ... Petitioner(s)

Versus

State of Punjab and Others ... Respondent(s)

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Mr. J.S. Thakur, Advocate for the petitioners.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

Ms. Kanchan, Advocate for
Mr. Monty Goyal, Advocate for respondent Nos.2 and 3.

ALKA SARIN, J. (ORAL)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.65 dated 24.04.2019 under Sections 323, 324, 354-B and 34 IPC, 1860, registered at Police Station Division No.6, Jalandhar Commissionerate (Annexure P-1), along with all consequential proceedings arising therefrom, on the basis of a compromise dated 13.07.2021 (Annexure P-2).
2. On 22.12.2021 the following order was passed :

“Prayer in this petition is for quashing of FIR No.65 dated 24.04.2019 under Sections 323, 324, 354-B and 34 IPC, 1860, registered at Police Station Division No.6, Jalandhar Commissionerate, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise dated 13.07.2021, Annexure P-2, arrived at between the parties.

Counsel for the petitioners submits that the petitioners and the complainant as well as injured are related to each other and FIR is an outcome of a minor altercation, which took place between the parties. He urges that during the scuffle, though the clothes of one of the injured ladies got torn yet there was no intention to disrobe her and offence under Section 354-B IPC is not made out.

Notice of motion.

On asking of the Court, Mr. Saurav Khurana, DAG, Punjab, accepts notice on behalf of respondent No.1-State. Mr. Ankit Chauhan, Advocate for Mr. Monty Goyal, Advocate accepts notice on behalf of respondents No.2 and 3. He admits the factum of compromise as well as the statement made by counsel for the petitioners.

The parties and Investigating Officer are directed to appear before the Illaqa Magistrate/trial Court on

22.02.2022 or any date within fortnight thereafter as fixed by the trial court, for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit a report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

- 1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties.*
- 5. whether any other criminal case is pending against the accused.*

Report of Illaqa Magistrate/trial Court be awaited for 05.04.2022.”

3. Pursuant to the order dated 22.12.2021 a report dated 01.04.2022 of the Chief Judicial Magistrate, Jalandhar has been received by this Court wherein it has been stated that the statements of the parties have been recorded and the parties have stated that they have compromised the

matter voluntarily without any threat, pressure, undue influence or fraud and that the complainant/respondent Nos.2 and 3 have no objection to the quashing of the present FIR. Statements of the parties have also been appended with the report.

4. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]** 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 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.”

5. Learned counsel for the petitioners has also referred to the law laid down by this Court in **Kulwinder Singh & Ors. vs. State of Punjab & Anr. [2007 (3) RCR (Criminal) 1052]** wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

6. In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

7. Resultantly, FIR No.65 dated 24.04.2019 under Sections 323, 324, 354-B and 34 IPC, 1860, registered at Police Station Division No.6, Jalandhar Commissionerate (Annexure P-1) is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 13.07.2021 (Annexure P-2).

8. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

08.08.2023
Yogesh Sharma

(ALKA SARIN)
JUDGE

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO