

**306 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-49588-2023 (O&M)
Date of Decision: 15.11.2023**

Ajit Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHUPresent: Mr. Ravi Singh, Advocate,
for the petitioner.Mr. Jaiteshwar S. Bhandari, AAG, Punjab
assisted by ASI Kewal Singh.Mr. Amit Rana, Advocate,
for respondent No.2.**MAHABIR SINGH SINDHU. J.**

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.28 dated 16.02.2023 under Section 447 read with Section 511 of the Indian Penal Code, 1860 (for short, '*the IPC*'), at Police Station Anandpur Sahib (**P-1**) along with all consequential proceedings arising therefrom on the basis of compromise entered into between the parties i.e. petitioner as well as respondent No.2.

Affidavit dated 15.11.2023 filed by the petitioner is taken on record. Registry to tag the same at appropriate place.

2. The allegations are that petitioner tried to build a wall by digging foundation in the land of the complainant.

3. This Court, while issuing notice of motion, on 03.10.2023, passed the following order:-

“Contends, inter alia, that matter has been compromised between the parties.

(2) Notice of motion.

(3) On asking of the Court, Mr. Jaiteshwar S. Bhandari, AAG, Punjab, accepts notice on behalf of respondent No.1/State.

(4) Mr. Amit Rana, Advocate, who is present in the Court, has filed power of attorney on behalf of respondent No.2. The same is taken on record. He acknowledged the factum of compromise dated 29.08.2023 (P-3) arrived at between the parties at their own level.

(5) Requisite number of copies of the petition be supplied to learned Counsel for the respondents during the course of day.

(6) Petitioner shall file their affidavit that there is no other criminal case(s) pending against him and also give the details of any other FIR(s), already quashed on the basis of compromise.

(7) In view of the above, let parties appear before the Court of learned Illaqa Magistrate/trial Court on 18.10.2023 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(8) Learned Illaqa Magistrate/trial Court shall record the statement(s) of all accused, complainant/injured and victim, if any, and submit a report to this Court before the next date of hearing containing the following information:-

- (i). Whether the statements of the parties are bona fide and not result of any pressure or coercion etc. in any manner?*
- (ii). Whether the compromise effected between the parties is genuine and valid?*
- (iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?*
- (iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof?*
- (v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?*
- (vi). Whether any of the petitioner(s) is/are previous convict or not?*

(9) List before this Court on **15.11.2023** for further consideration.

(10) *Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection?*

(11) *Copy of this order be sent to learned Judicial Officer concerned forthwith for information and strict compliance."*

4. In terms of aforesaid order, the statements of both the parties were recorded by learned Sub-Divisional Judicial Magistrate, Sri Anandpur Sahib and submitted a report dated 25.10.2023. The operative part of the same reads as under:-

"From the above statements of the complainant and the accused, this Court is of the view that the statements of the parties are bonafide and are not result of any pressure or coercion etc. in any manner. The compromise (Ex.C1), effected between the parties, is genuine and valid. Petitioner Ajit Singh is the only accused and Dalbir Singh respondent is the only complainant/aggrieved in the present case and both of them are party to the compromise (Ex.C1). There is no other accused or complainant/aggrieved in this case. No other case pending against the parties. No person involved in this case/dispute has been declared as proclaimed offender. Petitioner/accused Ajit Singh is not a previous convict."

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. The Hon'ble Supreme Court in **Gian Singh v. State of Punjab, (2012) 10 SCC 303**, has held 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. 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, petitioner is burdened with costs of Rs. 5,000/-. Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.

15.11.2023
SN

(MAHABIR SINGH SINDHU)
JUDGE

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