

253

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

**CRM-M-51220-2022
Date of Decision: 30.01.2023**

Keshav Goyal and another

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Ankit Gupta, Advocate for
Mr. Arjun Veer Sharma, Advocate
for the petitioners.

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

Mr. Sandesh Arora, Advocate
for respondent No.2.

HARSH BUNGER J. (ORAL)

Present petition under Section 482 Cr.P.C. is filed for quashing of FIR No.38 dated 13.05.2011 (Annexure P-1), under Sections 279, 337, 338, 427 and 506 IPC, registered at Police Station Dugri, District Ludhiana, along with all consequential proceedings arising therefrom on the basis of Compromise Deed dated 01.11.2022 (Annexure P-2).

Vide order dated 01.12.2022, the trial Court/Illaq Magistrate was directed to record the statements of the parties with regard to the compromise.

In compliance thereof, the Judicial Magistrate Ist Class, Ludhiana, has submitted a consolidated report, accompanied by copies of statements of all the concerned parties as well as the Investigating Officer,

vide letter dated 23.12.2022, which indicates that the parties appeared before the Magistrate 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:

“ - x - x - x -

Perusal of the file reveals that on 17.09.2021, finding a prima facie case, charge under Section 279/337/338/427 and 506 of IPC has been framed against the accused persons to which they pleaded not guilty and claimed trial and case was fixed for prosecution evidence. Ishwari Dutt is the only complainant as well as injured/aggrieved person in the above said FIR. There are two accused namely Keshav Goyal, aged about 32 years son of Dinesh Goyal, resident of H.No.387, Phase-II Urban Estate, Phase-II Dugri, Ludhiana, at present H.No.76 Asha Puri, Street No.3, near Sekhon Hospital Barewal Road, Raj Guru Nagar, Ludhiana and Kunal Shangari @ Kannu aged about 33, son of Pawan Kuamr Shangari, as the challan has been presented against them only. There is no other criminal case pending against both the accused persons. None of the accused is absconding/P.O. It is therefore, requested that present case may kindly be quashed against them.

From the statements, it appears that compromise has been voluntarily effected between the parties. The compromise appears to be genuine and without any pressure or coercion.

- x - x - x - ”

A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the

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

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

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

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

Hon'ble Apex Court in the case of “**Gian Singh Vs. 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 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 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.”

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.

Considering the entire facts, compromise arrived at between the parties, statements of the parties recorded before the Illaqa Magistrate/Trial Court and also report dated 23.12.2022, submitted by the Judicial Magistrate Ist Class, Ludhiana, since the parties have arrived at a compromise by amicably settling their disputes and have decided to live in peace, no useful purpose will be served in allowing the criminal proceedings to continue.

Further, in the light of the abovementioned judicial precedents, when the parties have entered into a compromise then continuation of the proceedings would be mere an abuse of process of the Court.

In order to prevent unnecessary continuation of criminal proceedings on the ground that there are bleak chances of conviction in the case, I am of the considered view that it would be in fitness of things to quash the proceedings on the basis of compromise and by quashing the FIR while accepting the prayer of the petitioners, would be securing the ends of justice.

Accordingly, this petition is allowed. FIR No.38 dated 13.05.2011 (Annexure P-1), under Sections 279, 337, 338, 427 and 506 IPC, registered at Police Station Dugri, District Ludhiana and all the consequent proceedings arising therefrom, are quashed qua the petitioners.

However, the same would be subject to payment of costs of Rs.10,000/- to

be deposited by the petitioners 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 the 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.

30.01.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No