

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

**CRM-M-55159-2023 (O&M)
Date of decision: 20.12.2023**

Narinder Kumar and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Abdul Aziz, Advocate for the petitioners.

Mr. Joginder Pal Ratra, Sr. DAG, Punjab for respondent No.1.

Ms. Arzoo Modi & Mr. Joginder Singh Siwach, Advocates
for respondent No.2 (through his LR).

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.17 dated 10.02.2021 (P-1), under Sections 420, 120-B of the Indian Penal Code, 1860, registered at Police Station, City, Dhuri, District Sangrur along with all consequential proceedings arising therefrom on the basis of compromise dated 20.09.2023 (P-3), entered into between the parties i.e. petitioners as well as respondent No.2 (through his LR).

(2) Above FIR was registered on the basis of statement made by respondent No.2-Kuldeep Rai (since deceased) with the allegations that

petitioners, in connivance with each other, duped the complainant and his family members to the tune of Rs.10,30,000/- on the pretext of sending them abroad.

(3) This Court, on 06.11.2023, passed the following order:-

“Contends that matter has been compromised between the parties i.e. petitioners as well as respondent No.2 (since deceased, through his LRs) and there is no other criminal case pending against the petitioners.

(2) Notice of motion.

(3) On asking of the Court, Mr. C.L.Pawar, Addl. A.G., Punjab accepts notice on behalf of respondent No.1/State.

(4) Mr. Kuldeep, Advocate for Mr. Joginder Siwach, 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 20.09.2023 (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) Petitioners shall file their respective affidavits that there is no other criminal case(s) pending against them 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 30.11.2023 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 20.12.2023 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, Dhuri and submitted a report dated 05.12.2023. The operative part of the same reads as under:-

“5. Further Area Magistrate is to submit a report containing the following information:-

(i) Whether the statements of the parties are bonafide and not result of any pressure or coercion etc in any manner?

The statements of the parties are bonafide and are not result of any pressure or coercion etc in any manner.

(ii) Whether the compromise effected between the parties is genuine and valid?

From the statements of the parties recorded, it appears that the said compromise is genuine and has been effected voluntarily without any force, coercion or undue influence and out of free will of the parties.

(iii) Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?

Yes. All the accused, complainant and injured are party to the compromise.

(iv) Whether any other case is pending against either of the parties or not, if yes, the details thereof?

Yes. There are civil and criminal cases pending against each other and they are detailed as under:-

1. A complaint under Section 138 of NI Act filed by Kuldeep Rai against the accused, which is pending in the Court of JMIC, Sangrur.
2. One recovery civil suit filed by Kuldeep Rai titled as "Kuldeep Rai Versus Nisha Mahindra and others", which is pending in the Court of CJJD, Dhuri.
3. Accused/petitioner No. 2 i.e. Nisha Mahindra filed a complaint under Section 13 DV Act against complainant Kuldeep Rai (since deceased), which is pending in JMIC, Malerkotla.
4. Accused/petitioner No. 1 i.e. Narinder Kumar filed civil suit titled as "Narinder Kumar Versus Surjit Rai etc" which is pending in the Court of CJJD, Malerkotla.
5. One recovery application/execution filed by accused/petitioner No. 2 i.e. Nisha Mahindra against Kuldeep Rai (since deceased), which is pending in the Court of JMIC, Malerkotla,
6. One CRR titled as "Narinder Kumar Versus State of Punjab etc", which is pending in the Court of Id. Session Judge, Sangrur.
7. One divorce petition titled as "Nisha Mahindra Versus Kuldeep Rai" under Section 13 of HMA, which is pending in the Court of Principal Judge, Family Court, Sangrur.

(v) Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?

As per the statement of IO ASI Janpal Singh No. 2503/PTL, accused has not been declared proclaimed offender in the said FIR by any Court.

(vi) Whether any of the petitioner (s) is/are previous convict or not?

As per the statement of petitioners/accused, they are not a previous convict by any Court of law..”

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioners as well as respondent No.2 (through his LRs) with their free consent, voluntarily and without any

coercion or undue influence. Even before this Court also, there is no grievance shown by either of the parties against each other.

(6) Learned State Counsel, on instructions, 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) Learned Counsel for respondent No.2 (through his LRs) also raises no objection.

(8) Hon'ble the Supreme Court in '**Gian Singh Versus 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.”

(9) In view of 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.

(10) 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 shall bear costs of ₹ 15,000/- (₹ 5,000/- each). Costs be deposited with the Punjab and

Haryana High Court Bar Association, Chandigarh Lawyers’ Family Welfare Fund.

(11) Pending application(s), if any, shall also stand disposed off.

20th December, 2023
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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