

**288 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-59286-2022 (O&M)
Date of Decision: 07.11.2023**

Sabrina Mahi and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHUPresent: Mr. Navraj Singh Mahal, Advocate,
for the petitioners.

Mr. C.L. Pawar, Addl. AG, Punjab.

Mr. P.S. Bhandari, 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.65 dated 10.04.2022 under Sections 406, 420 and 120-B of the Indian Penal Code, 1860 (for short, '*the IPC*') and Section 13 of Punjab Travel Professionals (Regulation) Act, 2014, at Police Station Division No.6, Jalandhar **(P-1)** along with all consequential proceedings arising therefrom on the basis of compromise **(P-2)**, entered into between the parties i.e. petitioners as well as respondent No.2.

2. The FIR was lodged on the basis of statement made by Sh. Mahender Pratap Singh with the allegations that accused duped him to the tune of Rs.6 lakh for sending abroad.

3. The Co-ordinate Bench, while issuing notice of motion, on 19.12.2022, passed the following order:-

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion for 09.05.2023.

At this stage, Ms. Swati Batra, DAG, Punjab, accepts notice on behalf of respondent No.1-State, while Mr. P.S.Bhandari, Advocate, has put in appearance on behalf of respondent No.2 and filed his vakalatnama, which is taken on record.

The parties are directed to move an application before the trial Court/Illaq Magistrate concerned for getting their statements recorded qua the factum of compromise. As and when any such application is moved and put up before the trial Court/Illaq Magistrate, the trial Court/Illaq Magistrate shall consider the said application and do the needful for recording the statements of the parties qua the factum of the compromise, on any convenient date. After recording the statements of all the affected parties, and upon getting requisite information from Investigating Officer, the trial Court/Illaq Magistrate shall submit its report on the basis of the statements so recorded, broadly on the following aspects:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition?

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?

(iii) Whether any accused has been declared Proclaimed Offender?

(iv) Whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion?

The report be submitted before this Court on or before the next date.”

4. In terms of aforesaid order, the statements of both the parties were recorded by learned Chief Judicial Magistrate, Jalandhar and submitted a report dated 12.07.2023. The operative part of the same reads as under:-

“In view of the statements of complainant/respondent and that of accused/petitioner Sabrina Mahi and S. Ujjwaldeep Singh, the compromise is genuine, voluntary and without any coercion or undue influence...”

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both sides with 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 each other.

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. In view of above, this Court is fully convinced that the offence is entirely personal in nature and does not involve any 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.

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, petitioners are burdened with costs of Rs.50,000/- (Rs. 25,000/- each). Costs be deposited with Punjab

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

07.11.2023
SN

(MAHABIR SINGH SINDHU)
JUDGE

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