

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

**CRM-M-60550-2022
Date of Decision: 14.02.2023**

Sharnjit Kaur and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Sukhbir Maandi, Advocate
for the petitioners.

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

Mr. J.S. Mahal, Advocate for
Mr. Paras Jagga, Advocate
for respondent No.2.

HARSH BUNGER J. (ORAL)

Present petition under Section 482 of the Code of Criminal Procedure is filed seeking quashing of FIR No.225 dated 18.10.2020 (Annexure P-1), under Sections 148, 149, 323, 324, 452 & 427 of the Indian Penal Code and Sections 25 & 27 of the Arms Act, registered at Police Station Sadar Patti, District Tarn Taran on the basis of compromise dated 22.11.2022 (Annexure P-2), arrived at between the parties.

Vide order dated 23.12.2022, passed by this Court, the trial Court/Illaq Magistrate was directed to record the statements of the parties with regard to the compromise.

In compliance thereof, the Sub Divisional Judicial Magistrate,

Patti, has submitted a consolidated report dated 01.02.2023, accompanied by statements of all the concerned parties and the Investigating Officer, 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 -

So, I am satisfied that the compromise arrived between the parties who appeared before me for recording their statements, is genuine and valid one.

From the statements of the parties, I am satisfied that a valid and genuine compromise has been effected between the parties as per their statements recorded in the Court. The aforesaid compromise appears to be genuine one and the same has been entered into voluntarily with free will of the parties without any threat or coercion or undue influence or pressure of any kind.

As per statement of I.O., ASI Gurmej Singh No. 1120/T.T. posted at Police Station Sadar patti, District Tarn Taran there are seven persons by name arrayed as accused in the above said FIR namely, i.e. 1) Lakhwinder Singh son of Major Singh, 2) Samittri wife of Satnam Singh, 3) Gore daughter of Major Singh, 4) Jasbeer Kaur wife of Satnam Singh, 5) Sharanjit Kaur D/o Satnam Singh, 6) Satnam Singh son of Jeon Singh, 7) Jagjit Singh son of Satnam Singh all residents of village Boparai, Tehsil Patti, District Tarn Taran and beside this there are 8 to 10 are unknown persons arrayed as accused. But only Sharanjit Kaur, Jasbeer Kaur, Jagjeet Singh and Satnam Singh filed the quashing petition before the Hon'ble High Court (who are petitioners No.1 to 4 before Hon'ble High Court). The case is still under investigation. None of the accused have been declared proclaimed offender

in the present case. The accused persons (who are petitioners No.1 to 4 before the Hon'ble Punjab & Haryana High Court) are not involved in any other case. Accused/petitioners No.1 to 4, i.e. Sharanjit Kaur, Jasbeer Kaur, Jagjeet Singh and Satnam Singh, have signed the compromise deed. There is one victim/complainant namely Barkha Singh (who is respondent No.2) before Hon'ble Punjab & Haryana High Court in the FIR.

- x - x -"

A perusal of the said report would show that the compromise has been found to be genuine, without any pressure or undue influence.

It is the submission of learned counsel for the petitioners that in present FIR No.225 dated 18.10.2020 (Annexure P-1), there are seven accused, however respondent No.2 has entered into a compromise only with the petitioners in this case; accordingly, a prayer has been made that the abovesaid FIR may kindly be quashed only against the petitioners and the proceedings may go on against the other accused in the said FIR.

Learned State counsel, on instruction from Assistant Sub Inspector Gurmej Singh, submits that the offences punishable under Section 452 of the Indian Penal Code and Sections 25 and 27 of the Arms Act, stand deleted in the present case, vide DDR No.24 dated 02.02.2021.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and compromised only between the petitioners in this case and respondent No.2/complainant so as to bring peace and amity between the parties. Accordingly, it is submitted that present FIR No.225 dated 18.10.2020 (Annexure P-1) may kindly be quashed only against the petitioners herein and the proceedings may be directed to go on against the other accused in the said FIR.

The issue regarding quashing of FIR against one or few of many accused and allowing the proceedings to continue against the other co-accused was subject matter before various Courts on different occasions and considering totality of facts and circumstances, the Courts have permitted quashing of FIR qua some of accused and at the same time, the proceedings have been allowed to continue against other co-accused. Some of the decisions in this regard are as follows:

In “*Jayrajsinh Digvijay Singh Rana v. State of Gujarat*”, **2012(12) SCC 401**; Hon'ble Apex Court quashed the FIR where the compromise was effected by one of the accused with the complainant, by observing as under:

“...In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such bona fide circumstances, the power under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of

the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.

10. In the light of the principles mentioned above, inasmuch as Respondent No. 2-the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice under Article 142 of the Constitution, we accept the terms of settlement insofar as the appellant herein (Accused No. 3) is concerned.

11. In view of the same, we quash and set aside the impugned FIR No. 45/2011 registered with Sanand Police Station, Ahmedabad for offences punishable under Sections 467, 468, 471, 420 and 120B of Indian Penal Code insofar as the appellant (Accused No. 3) is concerned. The appeal is allowed to the extent mentioned above...”

Partial or part quashing of FIR only qua the accused/offender with whom the complainant has compromised has also been upheld in **“*Lovely Salhotra and Anr. v. State, NCT of Delhi*”, 2017 (3) R.C.R. (Criminal) 85**, vide judgment dated 10.04.2017, passed by the Hon'ble Apex Court; wherein it was observed to the effect that it could not be held that the FIR cannot be quashed in part where no offence was made out against the accused who sought quashing of the FIR. The observations in paragraphs 3 and 6 of the said verdict of the Apex Court are to the following effect:

"3. We have taken into account the fact of the matter in question as it appears to us that no cognizable offence is made out against the appellant-herein. The High Court was wrong in holding that the F.I.R. cannot be quashed in part and it ought to have appreciated the fact that the appellants-herein cannot be

allowed to suffer on the basis of the complaint filed by Respondent No. 2- herein only on the ground that the investigation against co-accused is still pending. It is pertinent to note that the learned Magistrate has opined that no offence is made out against co-accused Nos.2, 3, 4 and 6 prima facie.

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6. *Accordingly, we set aside the order of the High Court and quash the FIR qua the appellants-herein."*

In "**Vijay Kumar Gupta v. State, Government of NCT of Delhi**" in **Crl.M.C. No.2289/2013**, the Delhi High Court made the following observations in paragraph No. 7 thereof:

"7. Looking into the facts and circumstances of the case and the fact that the petitioners have paid the loan/settlement amount to the Respondent No. 2 and nothing remains to be adjudicated further, to remove the hurdle in the personal life of the present petitioners for leading better and peaceful life and to meet the ends of justice, I deem it appropriate to quash the FIR No. 107/2003, under Section 406/420/468/471 Indian Penal Code, 1860, registered at Police Station - Parliament Street, Delhi qua against the petitioners, namely Vijay Kumar Gupta, Raj Kumar Sharma and Vinod Chaudhary only to the extent of their role in commission of the alleged offence."

In "**Sarabjit Singh v. State of Punjab**", 2007(3) RCR (Criminal) 479 (P&H), money was taken by the accused in the said case for sending son of the complainant abroad, but he was sent to some other destination. The complainant had settled the dispute with the petitioners in the said case but not with the other accused, who had also filed the petition in this Court for quashing of the complaint. This Court quashed the complaint qua the petitioners in the said case by making it clear that the proceedings against the other accused would continue.

(Criminal) 660 (P&H), it was held as under:

“6. The present dispute is purely personal in nature and the compromise has been arrived at between the petitioner and complainant. The said compromise has been arrived at between the two without any pressure. The complainant has no objection if the said FIR is quashed qua the present petitioner.

7. Taking into account the allegations as well as the statement of the complainant and the matter being totally personal in nature, there is no impediment in the way of this Court to quash the present FIR at least qua the petitioner.

8. Keeping in mind the decisions rendered by this Court in the cases of Parambir Singh Gill, Kulwinder Singh as well as the decision rendered by the Hon'ble Supreme Court in the case of Madan Mohan Abbot (*supra*) as also the facts of the present case, the compromise deserves to be accepted. Thus, it would be in the interest of justice to quash FIR No. 94 dated 03.07.2008 under sections 420, 467, 468, 471, 120B of Indian Penal Code, Police Station Pinjore, District Panchkula as well as further proceedings arising out of the same for keeping peace, harmony as well as to reduce friction in the society qua the petitioner only.

9. Accordingly, the aforesaid FIR and further proceedings arising out of the same are hereby quashed qua the petitioner whereas the proceedings against other accused shall continue...”

Keeping in view the aforementioned position, it is noticed that the present petition, which has been filed by petitioners herein, out of seven accused, seeking quashing of FIR in question on the basis of compromise; thus, is a case of partial compromise which is permissible as per the judgments referred above.

This Court has heard learned counsel for the parties and has perused the file. After perusing the report submitted by the trial Court, this

Court finds that the matter has been amicably settled between the petitioners and respondent No.2.

Hon'ble Apex Court in the case of “**Gian Singh Versus 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 pre-dominantly 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 v. 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 Sub Divisional Judicial Magistrate, Patti and also report dated 01.02.2023, submitted by the Sub Divisional Judicial Magistrate, Patti, since the parties have arrived at a compromise by amicably settling their disputes and have decided to live in peace, accordingly, the aforesaid FIR No.225 dated 18.10.2020 (Annexure P-1), under Sections 148, 149, 323, 324, 452 & 427 of the Indian Penal Code and Sections 25 & 27 of the Arms Act (offences under Section 452 of

the Indian Penal Code and Sections 25 & 27 of the Arms Act, deleted vide

order DDR No.24 dated 02.02.2021), registered at Police Station Sadar Patti, District Tarn Taran is hereby quashed **qua the petitioners herein only**, 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.

It is clarified that the proceedings against other accused shall continue.

Allowed in the aforesaid terms.

All pending application(s), if any, shall stand disposed of.

14.02.2023

Apurva

**(HARSH BUNGER)
JUDGE**

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