

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-12375-2024 (O&M)
Date of decision: 29.04.2024

Sham Sunder

... Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Piyush Khanna, Advocate for the petitioner.

Ms. Avneet, AAG, Punjab for respondent No.1.

Mr. Deepak Kundu, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.37 dated 12.05.2023 (P-1), under Section 323, 324 & 341 of the Indian Penal Code, 1860, registered at Police Station Mehtiana, District Hoshiarpur along with all consequential proceedings arising therefrom qua the petitioner on the basis of compromise dated 20.02.2024 (P-2).

(2) Above FIR was registered on the basis of complaint made by respondent No.2-Harpreet Singh with the allegations that petitioner gave dagger blows to him.

(3) The Coordinate Bench, while issuing notice of motion on 12.03.2024, passed the following order:-

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.37 dated 12.05.2023 under Sections 323,324,341 IPC registered at P.S Mehtiana, District Hoshiarpur and all other consequential proceedings arising there-from, on the ground that the parties have since compromised the matter vide compromise deed dated 20.02.2024 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since compromised the matter and have entered into a written compromise dated 20.02.2024 (Annexure P-2). In support, he relies on a judgment of this Court reported as Kulwinder Singh vs. State of Punjab, 2007 RCR (Criminal) Page 1052.

Notice of motion.

On the asking of the Court, Ms. Manjot Kaur, AAG, Punjab, accepts notice on behalf of respondent No.1-State. Mr. Karajveer Singh, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 states that the parties have voluntarily entered into a compromise and that the compromise is annexed as Annexure P.2 with the petition. He further states that respondent No.2 has no objection if the aforesaid FIR is quashed.

The Apex Court in the case of Gian Singh vs. State of Punjab & Anr, 2012 (10) SCC 303 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 proceedings 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 personal 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 an affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.

List on 29.04.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 09.04.2024, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing :

1) Whether the settlement/compromise dated 20.02.2024 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

2) Whether any other criminal cases are pending against the parties.

3) Whether any proclamation proceedings are pending against either of the parties.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate First Class, Hoshiarpur and submitted a report dated 16.04.2024. The operative part of the same reads as under:-

“As per the statements suffered by the parties, they have compromised the matter, voluntarily, without any coercion or undue influence and the compromise was effected between the parties as per their free will and consent. Therefore, in light of

the statements suffered by the parties, it appears that the parties have entered into a genuine compromise as per their free will and without any undue influence. ASI Sanjiv Kumar from Police Station Mehtiana appeared and recorded his statement that there is no other case pending either against accused/petitioner or complainant/respondent and there is no other aggrieved person except the complainant/respondent Harpreet Singh. However, as per the Statement of complainant the accused/petitioner has filed complaints Under S. 138 of NI Act against him at Ludhiana and same shall be withdrawn by the accused.

Hence in view of statement suffered by complainant/accused and perusal of the original complain file, it is reported that:

1.	<i>Whether the settlement/ compromise dated 20.02.2024 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind;</i>	<i>Compromise is genuine, voluntary and without any coercion or undue influence between the parties</i>
2.	<i>Whether any other criminal cases are pending against the parties;</i>	<i>As per the statement of the complainant the accused/petitioner has filed complaints Under S.138 of NI Act against him at Ludhiana and same shall be withdrawn by the accused. Apart from the said complaints there are no other criminal case has been lodged against the complainant or against the accused/petitioner in view of the statement of ASI Sanjiv Kumar</i>
3.	<i>Whether any proclamation proceedings are pending against either of the parties;</i>	<i>No proclamation proceedings are pending against either of the parties.</i>

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioner as well as respondent No.2 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 from ASI Sanjeev Kumar, 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 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 affect any public peace or tranquility. 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 petitioner.
- (11)

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

29th April, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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