

**290 IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRM M-28246-2023 (O&M)
Date of Decision: 20.03.2024**

Kamal Kumar @ Kala and othersPetitioners

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHUPresent: Mr. J.S. Jaidka, Advocate,
for the petitioners.Ms. Avneet, AAG, Punjab
assisted by HC Parpreet Singh.Mr. Lovepreet Singh, Advocate,
for respondents No.2 and 3.**MAHABIR SINGH SINDHU. J.**

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.189 dated 25.06.2020 (**P-2**) under Sections 452, 323, 506, 427 and 148 read with Section 149 IPC, at Police Station, City Hoshiarpur along with all consequential proceedings arising therefrom on the basis of compromise dated 20.05.2023 (**P-1**) entered into between the parties i.e. petitioners as well as respondents No.2 to 5.

2. Allegations are that petitioners formed an unlawful assembly and in furtherance of their common object, caused injuries on the person of complainant Vipan Kumar @ Gabbar and Savita Rani.

3. This Court, on 14.12.2023, passed the following order:-

“Contends that matter has been compromised between the parties i.e. petitioners as well as respondent Nos.2 and 3 and there is no other criminal case pending against the petitioners.

(2) It transpires that notice of motion has already been issued by the Coordinate Bench, vide order dated 31.05.2023.

(3) Mr. Jasmeet Singh Advocate has filed separate Power of Attorney on behalf of respondents No.2 & 3. He acknowledged the factum of compromise dated 20.05.2023 (P-1) arrived at between the parties at their own level.

(4) 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.

(5) In view of the above, let parties appear before the Court of learned Illaqa Magistrate/trial Court on 22.01.2024 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(6) 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?

(7) List before this Court on 20.03.2024 for further consideration.

(8) Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection?

(9) 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 Chief Judicial Magistrate, Hoshiarpur and submitted a report dated 01.02.2024. The operative part of the same reads as under:-

“(i) The statements of the parties appears to be bonafide and these appears to be not result of any pressure or coercion etc. in any manner.

(ii) The compromise effected between the parties appears to be genuine and valid.

(iii) All the accused, complainant and victim are party to the compromise.

(iv) As per the statement of Investigating Officer, no any other case is pending against either of the parties.

(v) As per the statement of Investigating Officer, the persons involved in this case have not been absconded or declared as proclaimed offender.

(vi) As per the statement of Investigating Officer, the petitioner/complainant and victim are not previous convicts.”

5. A perusal of the aforesaid report clearly reveals that the matter has been compromised by both the parties with their 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 the compromise.

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. Hon’ble the 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 the above, this Court is fully convinced that the offence(s) are entirely personal in nature and do 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.

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 shall bear costs of Rs.25,000/- (Rs. 5,000/- each). Costs be deposited with Punjab and Haryana High Court Employees Welfare Association, Account No. 37167209613, IFSC: SBIN0050306 maintained with State Bank of India, Punjab & Haryana High Court Branch, Chandigarh.

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

20.03.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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