



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

**CRM M-39337-2021 (O&M)
Date of Decision: 15.05.2024**

Radha Krishan and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Riffi Birla, Advocate,
for the petitioners.

Ms. Avneet, AAG, Punjab.

Mr. Arjunveer Sharma, Advocate,
for respondents No.2 & 3.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.217 dated 09.08.2021 (**P-1**) registered under Sections 332, 353, 186, 323 and 379-B read with Section 149 IPC, at Police Station, Fazilka, District Fazilka along with all consequential proceedings arising therefrom on the basis of compromise dated 03.09.2021 (**P-2**) entered into between the parties i.e. petitioner as well as respondents No.2 & 3.

2. At the outset, learned counsel for petitioners submits that there is no accused in the name of Bajaria arrayed as petitioner No.6 in the present petition and the confusion had arisen because petitioner No.5-Hem Raj while signing the compromise had written the word "*Bajaria*"; therefore, she withdraws petition filed on behalf of petitioner No.6 (Bajaria).

3. Ordered accordingly. Registry to do the needful.



4. Allegations are that petitioners formed an unlawful assembly and in prosecution of common object of said assembly caused injuries to the informant and his colleagues.

5. A Coordinate Bench of this Court, on 10.01.2023, passed the following order:-

“Learned counsel for the petitioners submits that the dispute has been amicably settled between the parties in terms of compromise deed (Annexure P-2).

Learned counsel for respondents No.2 & 3 admitted the factum of compromise.

In view of the above, parties are directed to appear before the Illaqa Magistrate/trial Court to get their statement(s) recorded with regard to compromise/settlement within a period of 30 days from today.

The learned Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

(i).Number of persons arraigned as accused in FIR;

(ii). Whether any accused is proclaimed offender;

(iii). Whether the compromise is genuine, voluntary, and without any coercion or undue influence.

(iv) Whether the accused persons are involved in any other case or not.

(v). The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The report of the Illaqa Magistrate/trial Court by awaited for 17.03.2023.

Status report/reply on behalf of State be also filed on the adjourned date.”

6. In terms of aforesaid order, the statements of both the parties were recorded by learned Additional Chief Judicial Magistrate, Fazilka and submitted a report dated 13.04.2023. The operative part of the same reads as under:-



“xx That while perusing the record, it transpires that accused No.6 namely Bajaria has wrongly been mentioned in the memo of parties. In fact accused Hem Raj had signed on the written compromise bajaria his wife Devi as he was confined in Central Jail, Ferozepur at that time. That only five accused have been arrayed in the FIR, who have appeared to get their statements recorded.

xx

From the statements of parties as well as the statement of I.O., the report of the undersigned is as under:-

- (i) That as per the statement of IO, five accused, namely, Radha Krishan, Satnam Singh, Prem Kumar, Balwinder Singh @ Sonu Mistri and Hem Raj have been arrayed as accused in the FIR, who have filed quashing petition before the Hon’ble High Court.*
- (ii) That as per the statement of IO, none of the accused is declared as proclaimed offender in this case.*
- (iii) That the compromise arrived at between the parties is genuine, voluntarily and without any coercion or undue influence*
- (iv) That as per the statement of IO, accused Balwinder Singh @ Sonu Mistri is involved in another FIR No. 398 dated 21.11.2020 registered at P.S. Sadar, Fazilka under Sections 324, 323, 148, 149 IPC and later on enhanced offences under Sections 307 and 325 IPC.*
- (v) That as per the statement of I.O., Daljit Singh son of Malkit Singh is the only victim/complainant in this case.”*

7. 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.

8. 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.

9. 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.”

10. 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.

11. 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.10,000/- (Rs.2000/- 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.

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

15.05.2024

SN

(MAHABIR SINGH SINDHU)
JUDGE

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