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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.35428-2023 (O&M)
Date of decision: 20.02.2024

Manpreet Singh
... Petitioner
Versus
State of Punjab and another
...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Dinesh Nagar, Advocate for the petitioner.
Mr. Neeraj Madaan, Sr. DAG., Punjab.
Mr. Bikram Jit Singh, Advocate for respondent No. 2.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 of Code of Criminal Procedure, 1973 for quashing of FIR No. 0159 dated 29.11.2007 (P-1), under Sections 420 read with Section 34 of the Indian Penal Code, 1860, registered at Police Station, City Hoshiarpur, District Hoshiarpur and impugned order dated 22.07.2010 (P-2) whereby petitioner was declared proclaimed person/offender by learned trial Court and all consequent proceedings on the basis of compromise dated 10.07.2023 (P-4), entered into between the parties i.e. petitioner as well as respondent No.2.

(2) Above FIR was registered on the basis of statement made by respondent No.2-Rajeev Duggal (who is owner of Sarla Filling Station, Court Road, Hoshiarpur), with the allegations that petitioner along with co-accused got filled the tank of motorcycle for an amount of Rs.300/-, but fled away without paying the bill and abused the complainant.

(3) While issuing notice of motion on 24.07.2023, this Court passed the following order:-

“Contends that matter has been amicably settled between the parties i.e. petitioner as well as respondent No. 2. Also contends that petitioner was declared as a proclaimed person vide order dated 22.07.2010 (P-2). Further contends that petitioner is ready to bear the costs of Rs.15,000/- for non-appearance before the Court below; but he be granted interim protection.

Notice of motion.

On asking of the Court, Mr. Joginder Pal Ratra, DAG., Punjab accepts notice on behalf of respondent No. 1 and seeks time to have instructions and/or file written response in the matter.

Ms. Vibha Nagar, Advocate appears on behalf of respondent No. 2 and acknowledges the factum of compromise.

Petitioner shall surrender before learned trial Court and upon doing so, he be released on interim bail, in the present case, till the next date of hearing on furnishing adequate bail and surety bonds to the satisfaction of learned trial Court subject to costs of Rs. 15,000/-. Costs be deposited with Advocates Welfare Fund, Punjab and Haryana High Court Bar Association, Chandigarh.

Posted for 10.08.2023.”

(4) This Court, on 29.11.2023, directed the parties to get their statements recorded before learned Illaqa Magistrate/trial Court in the following manner:-

“ Contends that matter has been compromised between the parties i.e. petitioner as well as respondent No. 2.

(2) It transpires that notice of motion has already been issued by this Court, vide order dated 24.07.2023.

(3) Learned State counsel as well as learned counsel for the respondent No. 2 acknowledged the factum of compromise dated 10.07.2023 (P-4) arrived at between the parties at their own level.

(4) Petitioner shall file an affidavit that there is no other criminal case(s) pending against him 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 or before 20.12.2023 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 13.02.2024 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.

(10) Till the next date of hearing, interim order to continue."

(5) In terms of aforesaid order, the statements of both the parties were recorded by learned Chief Judicial Magistrate, Hoshiarpur and submitted a report dated 04.01.2024. The operative part of the same reads as under:-

"(i) The settlement/compromise as recorded by the parties appears to have been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

(ii) The compromise appears to be genuine, voluntary and out of free will of the parties.

(iii) Both the complainant and accused are the party to the compromise.

(iv) No any other case is pending against either of the parties.

(v) The persons involved in this case have not absconded or declared as proclaimed offender.

(vi) The petitioner is not a previous convict."

(6) A perusal of the aforesaid report clearly reveals that matter has been compromised by 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 side against each other.

(7) Contends that matter has been amicably settled between the parties; there is no other case pending against the petitioner. Also contends that in terms of order dated 24.07.2023 (*ibid*), costs of Rs. 15,000/- have already been deposited by the petitioner at High Court Lawyers Welfare Fund. Receipt in this regard has been produced, which is taken on record and marked as 'X'.

(8) Learned State Counsel, on instructions, has apprised the Court that co-accused-Kulwant Singh has already been acquitted and petitioner has deposited the costs of Rs. 15,000/-. Learned State counsel also submitted that he has no objection in case the aforesaid FIR as well as consequential proceedings are quashed on the basis of compromise effected between the parties.

(9) Learned Counsel for respondent No.2 also acknowledged the factum of compromise effected between the parties.

(10) 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.”

(11) This Court is fully convinced that alleged offence(s) are entirely personal in nature and do 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.

(12) In view of above, it is not disputed that costs of Rs. 15,000/- have already been deposited by the petitioner and matter has been amicably settled between the parties; there is no grievance left against the petitioner nor State is objecting against the prayer made by the petitioner. Continuation of the

criminal proceedings would not serve any purpose rather this would waste the valuable time of the Court that can be utilized for deciding a better case.

(13) Consequently, present petition is allowed; aforesaid FIR and impugned order dated 22.07.2010 (P-2) whereby petitioner was declared proclaimed person along with all consequential proceedings resulting therefrom are quashed qua the petitioner.

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

20.02.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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