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

CRM-M No.39715-2023 (O&M)

Date of decision: 20.02.2024

Jagdish Singh Mall @ Jagdeep Singh and another

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. A.S. Brar, Advocate for the petitioners.

Mr. Neeraj Madaan, Sr. DAG., Punjab.

Mr. Satvir Singh, Advocate for
Mr. C.S. Jattana, 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. 125 dated 10.11.2017 (P-1), under Sections 120B, 420 of the Indian Penal Code, 1860, registered at Police Station, Lakhoke Behram, District Ferozepur and all subsequent proceedings consequent thereto on the basis of compromise dated 08.07.2023 (P-3), entered into between the parties i.e. petitioners as well as respondent No.2.

(2) Above FIR was registered on the basis of statement made by respondent No.2-Joginder Singh, to the effect that petitioners in connivance with co-accused-Baljinder Singh cheated him with false assurance to send him abroad and fraudulently obtained Rs. 3,50,000/- from complainant.

(3) This Court, on 29.11.2023, passed the following order:-

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

*(2) It transpires that notice of motion has already been issued
by this Court, vide order dated 11.08.2023.*

(3) Learned State counsel as well as learned counsel for the respondent No. 2 acknowledged the factum of compromise dated 08.07.2023 (P-3) 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 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."

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate Ist Class, Guruharsahai and submitted a report dated 07.02.2024. The operative part of the same reads as under:-

(i) After the evaluation of the statement of the parties, a report on the aspects so enumerated in the order is that statement of parties are bonafide and not result of any pressure or coercion etc. in any manner.

(ii) It is further respectfully submitted that compromise effected between the parties is genuine, valid, voluntary and without any coercion or undue influence.

(iii) It is further respectfully submitted that all the accused, complainant and injured are party to compromise.

(iv) It is further respectfully submitted that no other case is pending against either of the parties.

(v) It is further respectfully submitted that two persons were arrayed as accused and no person involved in this case/dispute has been declared as proclaimed offender.

(vi) It is further respectfully submitted that no person is previously convicted.”

(5) 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. Also reveals that no one has been declared as proclaimed offender. Even before this Court also, there is no objection by either side against each other.

(6) Learned State Counsel, on instructions, acknowledged the above factual position. 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.

(7) Learned Counsel for respondent No.2 also raised no objection to the present petition.

(8) 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.”

(9) In view of above, 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.

(10) 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 suffer costs of Rs.10,000/- (Rs.5,000/- each). Costs be deposited with Punjab and Haryana High Court Bar Association, A/C No. 65035682434, IFSC: SBIN0050306 maintained with State Bank of India, Punjab and Haryana High Court Branch, Chandigarh.

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

20.02.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>