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

CRM-M No.41647-2020 (O&M)

Date of decision: 05.02.2024

Anupam Nagalia and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Jigyasa Tanwar, Advocate for the petitioners.
Mr. Joginder Pal Ratra, Sr. DAG., Punjab.
Mr. Pradeep Virk, 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.0034 dated 04.02.2019(P-1), under Sections 406, 420, 120B of the Indian Penal Code, 1860, registered at Police Station Sohana, District S.A.S. Nagar Mohali and all other proceedings consequent thereto on the basis of compromise dated 16.12.2019 (P-2), 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 that he booked an apartment in IREO City, Sector-99, Mohali and paid all instalments from time to time to the company owned by petitioners. At the time of booking, petitioners assured possession by April, 2015, but they failed to do so and offered possession belatedly in August, 2017 which respondent No. 2 refused as the quality of work done was not satisfactory and gave very meagre compensation as a part of delayed possession scheme.

(3) This Court, while issuing notice of motion on 14.01.2021, passed the following order:-

“ *Taken up through video conferencing.*

The present petition under Section 482 of the Code of Criminal Procedure, 1973 has been filed for quashing of FIR No. 0034 dated 04.02.2019 under Section 406, 420, 120-B, of the Indian Penal Code, 1860 registered at Police Station Sohana, District SAS Nagar, Mohali, on the basis of compromise dated 16.12.2019 (Annexure P-2), arrived at between the parties.

(2) Learned counsel for the petitioners would contend that the relationship between the petitioners and the complainant was that of a builder and allottee and that certain differences arose between the parties which resulted in the filing of the FIR. The parties have since entered into a compromise dated 16.12.2019 (Annexure P-2) and all terms of the said compromise have since been complied with. Learned counsel for the petitioners has relief upon the judgment of Hon'ble Supreme Court rendered in "Gian Singh V/s State of Punjab & Anr." 2012 (10) SCC 303 and the Larger Bench's judgment of this Court in "Kulwinder Singh & Ors. Vs. State of Punjab & Anr." 2007(3) RCR (Criminal) 1052, wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 Cr.P.C to quash the proceedings to prevent abuse of law and secure the ends of justice.

Notice of motion.

On the asking of the Court, Mr. Ramandeep Sandhu, Sr. DAG, Punjab has joined the session through video conferencing and accepts notice on behalf of respondent No.1-State while Mr. Tejinder Pal Singh, Advocate has appeared through video conferencing on behalf of the complainant-respondent No. 2 and accepts notice. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No. 2 has stated that the compromise dated 16.12.2019 (Annexure P-2) has since been complied with in totality and further that respondent No. 2 has no objection if the aforesaid FIR is quashed.

List on 25.03.2021.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 15.02.2021, 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:

(i) Whether the settlement/compromise dated 16.12.2019 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.

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

(iii) 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, SAS Nagar and who submitted a report dated 25.01.2024. As per the report, petitioners and respondent No. 2 had settled the matter vide earlier compromise dated 16.12.2019 (P-2) but the same could not be honoured due to certain reasons; they have entered into fresh compromise dated 03.07.2023 which is annexed as A2 with report. The operative part of the same reads as under:-

(i) The settlement/compromise date 16.12.2019 Annexure A1 appears to be entered between the parties without any undue influence, coercion or pressure of any kind, though later on the same could not be honoured due to some reasons as mentioned by the parties and now the compromise dated 03.07.2023 Ex.A2 has been entered between the parties without any undue influence, coercion or pressure of any kind.

(ii) As per the statements of the parties and ASI Swaranjit Singh, no other criminal case is pending against them.

(iii) As per the statements of the parties and ASI Swaranjit Singh, no proclamation proceedings are pending against them.”

(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 are burdened with costs of Rs.1,00,000/- (Rs.25,000/- each). Costs be deposited with Poor Patient Welfare Fund, Post Graduate Institute of Medical Education & Research (PGIMER), Chandigarh.

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

05.02.2024
Harish Kumar

(MAHABIR SINGH SINDHU)
JUDGE

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