



213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-41674-2023 (O&M)
Date of decision: 28.05.2024

ATUL KAUSHIK AND ANOTHER

...PETITIONERS

V/S

STATE OF PUNJAB AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Rohit Bhardwaj, Advocate for
Mr. Sushil Bhardwaj, Advocate
for the petitioners.

Mr. Rishabh Singla, AAG Punjab.

Mr. Sanjeev Kumar, Advocate for
Mr. Arun Dogra, Advocate
for respondent No. 2.

HARPREET SINGH BRAR J. (ORAL)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No.110 dated 16.04.2019 under Sections 406/498-A/323 of the Indian Penal Code, 1860 registered at Police Station Zirakpur, District SAS Nagar (Mohali), and all other consequential proceedings arising there-from, on the ground that the parties have since compromised the matter vide compromise/settlement deed dated 03.04.2023 (Annexure P-2).

2. The following order was passed on 31.01.2024:

“The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.110 dated 16.04.2019 under Sections 406/498-A/323 of the Indian Penal Code, 1860 registered at Police Station Zirakpur, District SAS Nagar (Mohali), and all other consequential proceedings arising there-from, on the ground that the parties have since compromised the matter vide



compromise/settlement deed dated 03.04.2023 (Annexure P-2).

Learned counsel for the petitioners would contend that the parties have since compromised the matter and the compromise/settlement deed dated 03.04.2023 has been appended with the present petition as Annexure P-2.

Notice of motion.

On the asking of the Court, Mr. Anup Singh, AAG, Punjab, accepts notice on behalf of respondent No.1 State and waives service. Mr. Arun Dogra, Advocate accepts notice for respondent No.2. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has stated that the parties have voluntarily entered into a compromise and that the compromise is annexed as Annexure P-2 with the petition. He further states that respondent No.2 has no objection if the aforesaid FIR is quashed.

The Apex Court in the case of Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303] has held as under :

“57. 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

In view of the above cited judgment of Hon’ble Apex Court, this Court considers that it would be unfair and



contrary to the interest of justice to continue with the criminal proceeding despite compromise between the parties.

List on 29.04.2024.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 22.03.2024 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, alongwith the statements of the parties, on the following points be sent to this Court before the next date of hearing :

- 1) Whether the settlement/compromise dated 03.04.2023 (Annexure P-2) has been freely entered into between the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties.”*

3. Thereafter, vide order dated 29.04.2024, one more opportunity was granted to the parties for getting their statements recorded in terms of the compromise.

4. In compliance of the aforesaid orders, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

5. In view of the compromise and the ratio of law laid down by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466, Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834 and Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (CrL) 1052**, this petition

is allowed and FIR No.110 dated 16.04.2019 under Sections 406/498-A/323 of the Indian Penal Code, 1860 registered at Police Station Zirakpur, District SAS Nagar (Mohali) and all subsequent proceedings arising out of the same are quashed, qua the petitioners.

May 28, 2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

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|------|---------------------------|--------|
| (i) | Whether speaking/reasoned | Yes/No |
| (ii) | Whether reportable | Yes/No |