

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

CRM M-43601-2023 (O&M)
Date of Decision: 18.04.2024

Vijay Kumar

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. B.S. Bhalla, Advocate,
for the petitioner.

Ms. Avneet, AAG, Punjab.

Ms. Amarjot Kaur, Advocate,
for respondent No.2.

MAHABIR SINGH SINDHU. J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.159 dated 12.08.2023 (**P-1**) registered under Sections 3(1)(r) and 3(1)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'SCST Act'), at Police Station, City South, District Moga along with all consequential proceedings arising therefrom on the basis of compromise dated 28.08.2023 (**P-2**) entered into between the parties i.e. petitioner as well as respondent No.2.

Status report dated 18.04.2024 by way of affidavit of Sh. Ravinder Singh, PPS, Deputy Superintendent of Police (City), Moga filed on behalf of respondent No.1-State is taken on record. Registry to tag the same at appropriate place.

2. Allegations are that petitioner uttered casteist remarks upon the complainant and also criminally intimidated him with dire consequences.
3. A Coordinate Bench of this Court, on 01.09.2023, passed the following order:-

“The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C by the petitioner seeking quashing of FIR No.159 dated 12.08.2023, registered for offences punishable under Sections 3(1)(r) and 3(1)(s) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (Amendment 2015), at Police Station, City South, District Moga.

Learned counsel for the petitioner contends that the matter already stands compromised vide affidavit/compromise (Annexure P-2).

Notice of motion for 30.11.2023.

On the asking of the Court, Mr. Tarun Aggarwal, Sr. DAG, Punjab, accepts notice on behalf of respondent No.1-State. Ms. Amarjot Kaur, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties.

In view of the above, the parties i.e. the petitioner as well as respondent No.2 are directed to appear before learned Duty Magistrate/Illaq Magistrate/trial Court on 18.09.2023. On their doing so, the learned Duty Magistrate/Illaq Magistrate/trial Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other case or not?*
- 5. 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.*

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Duty Magistrate/Illaq Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

4. In terms of aforesaid order, the statements of both the parties were recorded by learned Chief Judicial Magistrate, Moga and submitted a report dated 06.10.2023. The operative part of the same reads as under:-

“(i) There are only one accused namely Vijay Kumar who has got recorded his statement before this Court.

(ii) As per statements of the parties and ASI Gurjinder Singh, accused has not been declared proclaimed offender till date.

(iii) From the statement of complainant Kamaljeet Singh and accused Vijay Kumar, it appears that they have compromised the matter with the accused persons genuinely, voluntarily, without any coercion or undue influence.

(iv) As per the report received from concerned Police Station and statement of ASI Gurjinder Singh, accused is not involved in any other FIR.

(v) As per the statement of ASI Gurjinder Singh, there is one complainant/injured Kamaljeet Singh and there is no other victim or complainant in this case.”

5. 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.

6. 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.

7. 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.”

8. Hon’ble the Supreme Court in **Ramawatar Vs. State of Madhya Pradesh, (2022) 13 Supreme Court Cases 635** summarized the principles and relevant considerations for quashing of proceedings under the SC/ST Act by the High Court in Para 17 of the judgment, which is extracted as below:-

“17. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under the “special statute” would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C.”

8. In view of the above, this Court is fully convinced that the offence(s) are entirely personal in nature; do not affect any public peace or tranquility and the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed. 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.

9. Consequently, present petition is allowed; aforesaid FIR along with all consequential proceedings resulting therefrom are quashed qua the petitioner.

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

18.04.2024
SN

(MAHABIR SINGH SINDHU)
JUDGE

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