

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

CRM-M-46731-2023 (O&M)

Date of decision: 18.03.2024

Mahesh @ Kalu and others

... Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Nitish Sharma & Ms. Parul Sharma, Advocates
for the petitioners.

Mr. Vikram Singh, AAG, Haryana for respondent No.1.

Ms. Sunita Shekhawat, 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.622 dated 12.12.2016 (P-1), under Sections 148, 325, 323, 452, 506 read with Section 149 of the Indian Penal Code, 1860, registered at Police Station DLF-II, District Gurugram along with all consequential proceedings arising therefrom on the basis of compromise dated 12.05.2023 (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-Reshma with the allegations that on 11.12.2016 at about

5:30 PM, petitioner(s) Ram Gopal, Parveen, Kuldeep, Rajesh, Mahesh @ Kalu & Parkasho, armed with *lathis* and *dandas*, formed an unlawful assembly, made criminal house trespass into the house of complainant with an intention to cause injuries to her as well as her husband-Pawan Kumar. Ram Gopal gave *lathi* blow causing head injuries to Pawan. Mahesh @ Kalu & Kuldeep given *lathi* blows on the waist of complainant. Parveen, who was carrying a knife, attempted to give its blow on the chest of Pawan, but it landed on his head causing an injury. Also alleged that accused attacked with an intention to kill them.

(3) The Coordinate Bench, while issuing notice of motion on 21.11.2023, passed the following order:-

“This petition has been filed under Section 482 Cr.P.C. for quashing of case FIR No.622 dated 12.12.2016 under Sections 148, 149, 325, 323, 452 and 506 of Indian Penal Code, 1860 registered at Police Station DLF-II, District Gurugram and subsequent proceedings arising therefrom, on the basis of compromise dated 12.05.2023 (Annexure P-2) arrived at between the parties.

Learned counsel for the petitioners contends that the parties have compromised the matter and as such, present FIR is liable to be quashed.

Notice of motion returnable for 11.02.2024.

Ms. Ambika Sood, Addl. A.G. Haryana puts in appearance on behalf of respondent No.1.

Ms. Sunita Shekhawat, Advocate, puts in appearance on behalf of respondent No.2 and has filed her power of attorney in Court, which is taken on record.

Learned counsel for respondent No.2-complainant has endorsed the averments made by learned counsel for the

petitioners and acknowledged the factum of compromise between the parties.

In view of the above, both the parties are directed to appear before the concerned trial Court/Duty Magistrate for recording their statements on 06.12.2023 or any other date convenient to the trial Court/Duty Magistrate. The statement of Investigating Officer be also recorded on the same day, who would also identify the parties appearing before the Court. The original compromise shall be produced before the trial Court/Duty Magistrate.

The trial Court/Duty Magistrate is directed to submit a report on or before the next date of hearing, containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed person?*
- 3. Whether all the accused/petitioner(s) is/are appearing before the Court?*
- 4. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 5. Whether the accused/petitioner(s) is/are involved in any other FIR or not?*
- 6. The trial Court/Illaq Magistrate/Duty Magistrate 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 statements so recorded be also sent along with the report.

State to file reply/status report by the next date.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate First Class, Gurugram and submitted a report dated 20.01.2024. The operative part of the same reads as under:-

“1. FIR was registered against ten persons.

2. *Accused were never declared proclaimed offenders as per police record.*
3. *All accused appeared before the Court.*
4. *The compromise appears to be genuine voluntary.*
5. *The accused are not involved in any other case as per version of IO.*
6. *The statements of parties have been recorded.”*

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioners as well as respondent No.2 with their free consent, voluntarily and without any coercion or undue influence. Even before this Court also, there is no grievance shown by either of the parties against each other.

(6) Learned State Counsel, on instructions from ASI Lalit Kumar, 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) Learned Counsel for respondent No.2 also raises no objection.

(8) Hon’ble the Supreme Court in ‘**Gian Singh Versus 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 predominately 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 the offence is entirely personal in nature and does not affect any public peace or

tranquility. 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. Since the parties are related to each other, therefore, no costs are imposed upon the petitioners.

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

18th March, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes