

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-46708-2023 (O&M)
Date of decision: 24.01.2024

Gurmail Singh and others

... Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Jaspreet Singh Brar, Advocate for the petitioners.

 Mr. Joginder Pal Ratra, Sr. DAG, Punjab for respondent No.1.

 Mr. Inderjeet Singh Brar, Advocate for respondent Nos.2 to 4.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C., *inter alia*, for quashing of FIR No.0107 dated 15.08.2017 (P-1), under Sections 420, 465, 467, 468, 471 & 120-B of the Indian Penal Code, 1860, registered at Police Station, Sadar Kotkapura, District Faridkot along with all consequential proceedings arising therefrom on the basis of compromise dated 23.08.2023 (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 Jarnail Singh, Bikkar Singh (both since deceased), respondent No.2- Gurtej Singh & respondent No.3-Gurdeep Singh with the allegations that

petitioners along with other co-accused, had prepared fake Will dated 14.05.1984 of deceased-Badan Singh.

(3) The Coordinate Bench, while issuing notice of motion on 09.10.2023, passed the following order:-

“The present petition has been filed for quashing of FIR No.0107 dated 15.08.2017, registered under Sections 420, 465, 467, 468, 471 and 120-B of the Indian Penal Code, 1860, at Police Station Sadar Kotkapura, District Faridkot, along with all subsequent proceedings arising therefrom, on the basis of compromise.

Notice of motion for 15.12.2023.

On asking of the Court, Mr. Sandeep, Additional Advocate General, Punjab, accepts notice on behalf of respondent No.1-State and Mr. Inderjeet Singh Brar, Advocate, accepts notice on behalf of respondents No.2 to 4.

Learned counsel for the petitioners is directed to supply copy of the paper book to the counsel opposite during course of the day.

Let the parties now appear before the Trial Court/Illaq Magistrate on 13.10.2023 or any other date convenient to the Court for recording their statements with regard to compromise. The Trial court/Illaq Magistrate is directed to record the statements of both the parties to its satisfaction to know the genuineness of the compromise and to assess that the statements are not the result of any pressure or coercion in any manner. The Trial Court/Illaq Magistrate is also directed to send a report along with statements of the parties with regard to validity or otherwise of the compromise effected between the parties. It shall also be reported whether petitioners have been declared Proclaimed Offenders in this case or not.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Additional Chief Judicial Magistrate, Faridkot and

submitted a report dated 10.11.2023. The operative part of the same reads as under:-

- “1. As per FIR, there are five accused as arrayed in the FIR, their names being Gurmail Singh, Balveer Singh, Malkit Singh, Jarnial (sic –Jarnail) Singh and Jagjit Singh.*
- 2. As per the statement of Investigating Officer as well as accused, none of the accused is declared proclaimed offender in any other criminal case.*
- 3. From the statements of the parties, as recorded in the Court, it appears that they have voluntarily compromised the matter, which is with their own sweet will and discretion, without any pressure or coercion and the same appears to be genuine.*
- 4. As per statement of Investigating Officer as well as accused, they are not involved in any other case.”*

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioners as well as private respondent(s) 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 HC Yadvinder Singh, 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 Nos.2 to 4 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 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 the offence is entirely personal in nature and does 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 ₹ 25,000/- (₹ 5000/- each). Costs be deposited with the Punjab and Haryana High Court Bar Association, A/c No.65035682434, IFSC: SBIN0050306, maintained with State Bank of India, Punjab & Haryana High Court Branch, Chandigarh.

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

24th January, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes