

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-51009-2023 (O&M)
Date of decision: 15.04.2024

Harmesh Lal and another

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Arpan Sabharwal, Advocate for the applicants/petitioners.
Mr. Neeraj Madan, Sr. DAG, Punjab for respondent No.1.
Mr. Rahul Garg, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J.

CRM-14981-2024

Application for restoration of the main petition by recalling the order dated 20.03.2024 of this Court, vide which the main petition was dismissed for non-prosecution.

Notice of the application to the non-applicant/respondent.

On asking of the Court, Mr. Neeraj Madan, Sr. DAG, Punjab accepts notice on behalf of the non-applicant/respondent No.1 and raises no objection to the present application.

Learned Counsel for respondent No.2 also raises no objection.

In view of the above and for the reasons mentioned in the application, the same is allowed subject to all just exceptions. Main petition is ordered to be restored to its original number and taken on board today itself.

MAIN CASE

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.73 dated 20.05.2023 (P-1), under Section 448 read with Section 511, 380, 506, of the Indian Penal Code, 1860, registered at Police Station Division No.7, Police Commissionerate, District Jalandhar along with all consequential proceedings arising therefrom qua the petitioners on the basis of compromise dated 10.07.2023 (P-2).

(2) Above FIR was registered on the basis of complaint made by respondent No.2-Gurdayal Singh @ Gurdial Singh with the allegations that petitioners tried to take forcible possession of the property, which was given to them as caretakers and also committed theft of articles lying therein.

(3) This Court, while issuing notice of motion on 09.11.2023, passed the following order:-

“Contends, inter alia, that matter has been compromised between the parties.

(2) Notice of motion was issued on 11.10.2023.

(3) Learned State counsel acknowledged the factum of compromise dated 10.07.2023 (P-2) arrived at between the parties at their own level.

(4) Petitioners shall file their respective affidavits that there is no other criminal case(s) pending against them and also give the details of any other FIR(s), already quashed on the basis of compromise.

(5) In view of the above, let parties appear before the Court of learned Illaqa Magistrate/trial Court on 20.12.2023 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(6) Learned Illaqa Magistrate/trial Court shall record the statement(s) of all accused, complainant/injured and victim, if any, and submit a report to this Court before the next date of hearing containing the following information:-

(i). Whether the statements of the parties are bona fide and not result of any pressure or coercion etc. in any manner?

(ii). Whether the compromise effected between the parties is genuine and valid?

(iii). Whether all the accused, complainant and injured are party to the compromise and if not, the details/particulars of such person(s)?

(iv). Whether any other case is pending against either of the parties or not, if yes, the details thereof?

(v). Whether any of the persons involved in this case/dispute has been declared a proclaimed offender?

(vi). Whether any of the petitioner(s) is/are previous convict or not?

(7) List before this Court on 29.01.2024 for further consideration.

(8) Meanwhile, learned State Counsel shall also get the instructions in the matter as to whether the State has any objection?

(9) Copy of this order be sent to learned Judicial Officer concerned forthwith for information and compliance.”

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

“1. Statements of both the petitioners, attorney of complainant have been recorded and the same found to be bonafide and

not result of any pressure or coercion in any manner. However, complainant himself has not come present personally to suffer statement regarding the compromise.

- 2. During their statements, both the petitioners and Kuljit Kumar Chahal attorney of the complainant have submitted that compromise was effected between the parties. Said compromise bears the signatures of complainant Gurdial Singh. From their statements, compromise appears to be genuine and valid, but complainant himself has not personally come present to endorse the compromise.*
- 3. As per the record and statement suffered by SI Pavittar Singh the investigating officer, there are two accused namely Harmesh Lal, his son Goldy Chahal and one complainant namely Gurdial Singh @ Gurdayal Singh, who are party to the petition.*
- 4. As the statements suffered by both the accused persons, attorney of complainant and the investigating officer, no other case is pending between the parties.*
- 5. As per the statement suffered by SI SI Pavittar Singh, the investigating officer, no person involved in this case is declared a proclaimed offender.*
- 6. As per the statement suffered by SI Pavittar Singh, the investigating officer, the accused/petitioners are not previous convict.”*

(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, 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 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 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. However, as a deterrence for the future, petitioners shall suffer costs of ₹ 50,000/- (₹ 25,000/- each). Costs be deposited with the Punjab and Haryana High Court Employees Welfare Association, Account No.37167209613, IFSC: SBIN0050306, State Bank of India, High Court Branch, Chandigarh.

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

15th April, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes