

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-55190-2023 (O&M)
Date of decision: 19.04.2024

Sandeep Kumar

... Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Ms. Ramandeep Kaur, Advocate for
Mr. Kushagra Mahajan, Advocate for the petitioner.

Ms. Manjot Kaur, AAG, Punjab for respondent No.1.

Ms. Sunita Devi, Advocate for
Mr. Ankush Rampal, Advocate for respondent No.2.

MAHABIR SINGH SINDHU, J.

CRM-13838-2024

Application for preponing the date of hearing in the main case,
which is stated to be pending for 13.08.2024.

It transpires that notice of the application has already been
issued to the non-applicants/respondents vide order dated 04.04.2024.

Learned State Counsel as well as learned Counsel for
respondent No.2 submit that they have no objection if the present application
is allowed.

In view of the above and for the reasons mentioned in the application, the same is allowed. Main case is preponed and taken on board today itself.

Registry to do the needful.

MAIN CASE

Present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.105 dated 24.08.2018 (P-1), under Section 323, 341, 506 of the Indian Penal Code, 1860, registered at Police Station Kathunangal, District Amritsar (Rural) along with all consequential proceedings arising therefrom qua the petitioner on the basis of compromise dated 21.09.2023 (P-2).

(2) Above FIR was registered on the basis of complaint made by respondent No.2-Amarpreet Singh with the allegations that petitioner-Sandeep along with co-accused-Mani gave *datar* blows; whereas co-accused Mani with *butt* of a pistol to the complainant party and took out Rs.50,000/- from the drawer of Shop.

(3) This Court, while issuing notice of motion on 06.11.2023, passed the following order:-

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

(2) Notice of motion.

(3) Mr. C.L. Pawar, Addl.A.G., Punjab, accepts notice on behalf of respondent No.1-State.

(4) Mr. Ankush Rampal, Advocate, causes representation on behalf of respondent No.2 and acknowledged the factum of compromise between the parties.

(5) Requisite number of copies of the petition be supplied to learned Counsel for the respondents during the course of day.

(6) 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.

(7) In view of the above, let parties appear before the Court of learned Illaqa Magistrate/trial Court on 30.11.2023 for recording their statement(s) with reference to the compromise, if any, entered into between them.

(8) 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?*

(9) List before this Court on 20.12.2023 for further consideration.

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

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

(4) Thereafter, on 20.12.2023, this Court passed the following order:-

“Learned Counsel for the petitioner seeks one more opportunity for recording the statements of the parties in terms of order dated 06.11.2023.

So ordered.

Let needful be done on or before 22.01.2024 in terms of order dated 06.11.2023 and report be submitted to this Court on 18.03.2024.”

(5) In terms of aforesaid order(s), the statements of both the parties were recorded by learned Judicial Magistrate 1st Class, Amritsar and submitted a report dated 13.03.2024. The operative part of the same reads as under:-

“5) The report is as under:-

i) After perusing the statements of the parties, this Court is satisfied that the compromise between the petitioner and respondent No. 2 is bonafide and not the result of any pressure or coercion.

ii) After perusing the statements of the parties, this Court is satisfied that the compromise between the petitioner and respondent No. 2 is genuine and valid.

iii) As per the statement of the IO, there are total three accused persons and one complainant/victim. Only one of the accused namely Sandeep Kumar and the complainant are party to the present compromise. The names of other two accused persons is Manikaran Bawa and Jaskarandeep Singh. As per the statement of the IO, the present FIR against the accused Manikaran Bawa has already been quashed.

iv) As per the statement of the IO, there is no other case pending against the present parties. However, there are two other FIRs i.e. FIR No. 165/2018, P.S Cantonment and FIR No. 11/2019, P.S Kathunangal pending against the third accused Jaskarandeep Singh.

v) As per the statement of the IO, none of the accused has been declared as a proclaimed offender.

vi) As per the statement of the 10, the petitioner Sandeep Kumar is not a previous convict.”

(5) A perusal of the aforesaid report clearly reveals that matter has been compromised by both sides i.e. petitioner 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 petitioner. However, as a deterrence for the future, petitioner shall suffer costs of ₹ 10,000/-. 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.

19th April, 2024
Gagan

(MAHABIR SINGH SINDHU)
JUDGE

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