

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

298

CRM-M-58985 of 2022
Date of Decision:24.01.2024

Divyanshu @ Sajan

....Petitioner

Versus

State of U.T. Chandigarh and another

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Mukesh Kumar Bhatnagar, Advocate,
for the petitioner.

Mr. Manish Bansal, Public Prosecutor
for the respondent-U. T. Chandigarh.

Mr. S. K. Bawa, Advocate,
for respondents No.2.

SUDEEPTI SHARMA, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0115 dated 28.07.2022, registered under Sections 376(2), 328 of the Indian Penal Code, 1860 (Annexure P-1), at Police Station Sector-39, Chandigarh, District Chandigarh, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 05.12.2022 (Annexure P-2).

2. Pursuant to the order dated 16.12.2022, a report dated 09.03.2023 of the Judicial Magistrate Ist Class, Chandigarh, has been received by this Court wherein it has been stated that the statements of the parties have been recorded and the parties have stated that they have

compromised the matter voluntarily without any threat, pressure, undue influence or fraud and that respondent No.2 has no objection to the quashing of the present FIR. Statements of the parties have also been appended with the report.

3. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]** has held as under :

“57. 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 F.I.R may be exercised where the offender and 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 serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like 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 pre-dominantly civil flavour stand on 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, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put 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 wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

4. In view of the above and keeping in view the report sent by the Trial Court that the parties have genuinely entered into a compromise and all

disputes between the parties have been resolved, it would not be in the interest of justice to continue with the criminal proceedings.

5. Resultantly, FIR No.0115 dated 28.07.2022, registered under Sections 376(2), 328 of the Indian Penal Code, 1860 (Annexure P-1), at Police Station Sector-39, Chandigarh, District Chandigarh including all subsequent proceedings arising out of the said FIR, is hereby quashed on the basis of compromise dated 05.12.2022 (Annexure P-2).
6. The petition is accordingly allowed.
7. Pending applications, if any, also stand disposed off.

(SUDEEPTI SHARMA)
JUDGE

January 24, 2024
dinesh

Whether speaking	:	Yes/No
Whether reportable	:	Yes/No