

CRM-M-32344-2023 (O&M)

2023:PHHC:138331

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

**CRM-M-32344-2023 (O&M)
Date of decision: 30.10.2023**

Amar Singh Dhanesar and others

... Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

Present: Mohd. Yousaf, Advocate for the petitioners.

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

Mr. Mahipal S. Yadav, Advocate for
Mr. Sunny K. Singla, Advocate for respondent Nos.2 & 3.

MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.03 dated 15.07.2016 (P-1), under Sections 420, 465, 468, 471 & 120-B of the Indian Penal Code, 1860, registered at Police Station NRI Sangrur, District Sangrur along with all consequential proceedings arising therefrom on the basis of compromise dated 10.02.2023 (P-3), entered into between the parties i.e. petitioners as well as respondent Nos.2 & 3.

(2) Above FIR was registered on the basis of statement made by respondent No.2-Gurcharan Singh against his NRI brother-Amar Singh; father-Darshan Singh (since deceased); uncle-Bahadur Singh and one Bashir Mohd. with the allegations that they, in connivance with each other, had committed fraud by preparing forged documents. Hence, the present FIR.

(3) The Co-ordinate Bench, on 19.07.2023, passed the following order:-

“This application has been filed under Section 482 Cr.P.C seeking direction to the trial Court to record the statement of the parties in respect of the compromise dated 10.02.2023 and 23.06.2023 (Annexures P-3 and P-4).

Notice in the application.

At this stage, Mr. Sandeep Kumar, DAG, Punjab accepts notice on behalf of the respondent-State, wheres Mr. Sunny Singla, Advocate appears on behalf of respondent No.2 and admits the factum of compromise.

The private parties are directed to appear before the trial Court/Illaq Magistrate on or before 02.08.2023 for recording their statements with regard to compromise/settlement. Trial Court/Illaq 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 in FIR.*
- 2. Whether any accused is proclaimed offender?*
- 3.Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. The trial Court 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 report be also sent through fax to the Registrar Judicial of this Court.

Application stands disposed of.”

(4) In terms of aforesaid order, the statements of both the parties were recorded by learned Judicial Magistrate 1st Class, Sangrur and

submitted a report dated 29.09.2023. The operative part of the same reads as under:-

“After going through the statements given by complainant Gurcharan Singh, accused Amar Singh Dhanesar, Bahadur Singh and Bashir Mohd. And investigating officers ASI Malkit Singh and Inspector Puneet Garg, the following report is submitted as desired by your goodself:-

(1) FIR No. 03 dated 15.07.2016 under Sections 420, 465, 468, 471, 120-B IPC, P.S. NRI, Sangrur has been registered against four persons i.e. Darshan Singh son of Babu Singh, Bahadur Singh son of Babu Singh, Amar Singh son of Darshan Singh all resident of Village Bhodan, Tehsil and District Malerkotla and Bashir Mohd. Son of Jaan Mohd. Resident of Village Tkahkar Khurd, P.S. Sandaur, District Malerkotla and these four have been arrayed as accused in present FIR. Out of these four accused, accused Darshan Singh son of Babu has been expired during trial.

(2) None of the accused person has been declared proclaimed offender.

(3) On the basis of statements given by parties and investigating officers, it is hereby submitted that the compromise effected between complainant and accused persons is genuine, the same has been effected voluntarily, without any pressure, coercion or undue influence from any quarter.

(4) On the basis of statement given by investigating officer Insp. Punnet Garg No. 60/BTRT, posted as SHO PS NRI, Sangrur, it is hereby submitted that there are 4 cases i.e. FIR No. 65 dated 22.07.2014, PS Sandhaur, FIR No. 111 dated 29.12.2014, PS Sandhaur, FIR No.82 PS Sadar Malerkotla and FIR No. 281 dated 28.12.2012, PS Sadar Dhuri registered against accused Dashan Singh son of Babu Singh and there are 2 cases i.e. Larken Sandhu JMIC, Sangrur, FIR No. 14 dated 29.12.2014, PS Sandhaur and FIR No.65 dated 22.07.2014, PS Sandhaur registered against accused Bahadur Singh son of Babu Singh. Accused Amar Singh son of Darshan Singh and Bashir Mohd, son of Jaan Mohd., are not involved in any other FIR.

(5) On the basis of statements given by investigating officers and accused persons, it is hereby submitted that Gurcharan Singh son of Darshan Singh, resident of Bhodan Singh is the only complainant/victim of this case.

This report along with statements of parties and annexures is submitted as desired by your goodself vide order dated 19.07.2023 passed in CRM-M-28321-2023 in CRM-M-32344-2023.”

(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 Gurjant 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 in view of the fact that dispute is between real brothers and uncle.

(7) Learned Counsel for respondent No.2 also raises no objection.

(8) The Hon'ble 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 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 are burdened

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with costs of ₹ 15,000/- (₹ 5000/- each). Costs be deposited with Punjab and Haryana High Court Bar Association, Chandigarh Lawyers Family Welfare Fund.

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

October 30th, 2023

Gagan

(MAHABIR SINGH SINDHU)

JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>