

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA
CrMMO No. 387 of 2023
Decided on: April 28, 2023

| | | |
|--------------------------------------|--------|------------------|
| Darshan Kumar and others | Versus |Petitioners |
| State of Himachal Pradesh and others | | ...Respondents |

Coram
Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

| | |
|----------------------|---|
| For the petitioners: | Mr. Bonit Thakur & Mr. Vikram Singh Thakur, Advocates. |
|----------------------|---|

| | |
|----------------------|--|
| For the respondents: | Mr. Anoop Rattan, Advocate General with Mr. Rajan Kahol and Mr. B.C. Verma, Additional Advocates General with Mr. Rahul Thakur and Mr. Ravi Chauhan, Deputy Advocates General, for respondent Nos. 1 and 2. Ms. Babita, Advocate, for respondents Nos. 3 and 4. |
|----------------------|--|

Sandeep Sharma, J. (oral)

By way of instant petition filed under S.482 CrPC, prayer has been made on behalf of the petitioners for quashing of FIR No.97, dated 29.9.2022 under Ss. 451, 354, 323 and 34 IPC registered at Police Station Fatehpur, District Kangra, Himachal Pradesh alongwith consequential proceedings pending in the competent court of law, on the basis of compromise (Annexure P-2) arrived *inter se* parties.

2. Precisely, the facts of the case as emerge from the record are that FIR sought to be quashed in the instant proceeding, came to be lodged at the behest of respondent No.3 Sandeep Kumar/complainant (hereinafter, 'complainant'), who alleged that on 25.9.2022, while he was feeding his cows and his wife, respondent No.4 was feeding her child, then his uncle, Darshan, petitioner No.1 went to the room of his wife and hurled abuses. Complainant further

alleged that his mother and grandfather also gave beatings and threw them out of the house, as such, appropriate action in accordance with law be taken against them. In the aforesaid background, FIR sought to be quashed in the instant proceeding, came to be lodged against the petitioners, who happen to be grandfather, uncle and mother of the complainant. Though, after completion of investigation, police has presented *Challan* in the competent court of law but before the same could be taken to its logical end, parties have entered into compromise with each other, whereby they have resolved to settle the dispute *inter se* them amicably, as such, petitioners have approached this court in the instant proceedings, for quashing of FIR as also consequent proceedings pending in the competent court of law.

3. Pursuant to order dated 24.4.2023 respondent-State has filed status report under the signatures of Station House Officer, Police Station Fatehpur, but the same is silent about compromise, if any, arrived *inter se* parties.

4. Respondents Nos. 3 and 4 have come present in the court and are duly represented by Ms. Babita, Advocate. They state on oath that they have entered into compromise with the petitioners of their own volition and without there being any external pressure, whereby they have resolved to settle the dispute *inter se* them amicably. They state that the FIR in question is the result of misunderstanding coupled with the fact that the petitioners have apologized for their misbehaviour and misconduct and undertaken not to repeat such acts in future, as such, they shall have no objection, in case, petitioner are acquitted of the

charges framed against them, after quashing the FIR alongwith consequential proceedings pending in the competent court of law. While admitting the contents of compromise to be correct, they also admits their signatures thereupon. Their joint statement is taken on record.

5. Learned Additional Advocate General, after having heard the statements of respondent Nos. 3 and 4, states that keeping in view the compromise arrived *inter se* parties, chances of conviction of the petitioners are remote and bleak, as such, respondent-State shall have no objection in case prayer made on behalf of the petitioners for quashment of FIR alongwith consequential proceedings is allowed.

6. The question which now needs consideration is whether FIR's in question can be ordered to be quashed when Hon'ble Apex Court in **Narinder Singh and others** versus **State of Punjab and another** (2014) 6 SCC 466 has specifically held that power under S. 482 CrPC is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society.

7. At this stage, it would be relevant to take note of the judgment passed by Hon'ble Apex Court in **Narinder Singh** (supra), whereby the Hon'ble Apex Court has formulated guidelines for accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal

proceedings. Perusal of judgment referred to above clearly depicts that in para 29.1, Hon'ble Apex Court has returned the findings that power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash criminal proceedings even in those cases which are not compoundable and where the parties have settled the matter between themselves, however, this power is to be exercised sparingly and with great caution. In para Nos. 29 to 29.7 of the judgment Hon'ble Apex Court has laid down certain parameters to be followed, while compounding offences.

8. Careful perusal of para 29.3 of the judgment suggests that such a power is not to be exercised in the cases which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Apart from this, offences committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly arising out of commercial transactions or arising out of matrimonial relationship or family disputes may be quashed when the parties have resolved their entire disputes among themselves. Aforesaid view taken by

Hon'ble Apex Court has been further reiterated in **Gian Singh v. State of Punjab and anr.** (2012) 10 SCC 303.

9. The Hon'ble Apex Court in case **Gian Singh** supra has held that power of the High Court in quashing of the criminal proceedings or FIR or complaint in exercise of its inherent power is distinct and different from the power of a Criminal Court for compounding offences under Section 320 Cr.PC. Even in the judgment passed in **Narinder Singh's** case, the Hon'ble Apex Court has held that while exercising inherent power of quashment under Section 482 Cr.PC the Court must have due regard to the nature and gravity of the crime and its social impact and it cautioned the Courts not to exercise the power for quashing proceedings in heinous and serious offences of mental depravity, murder, rape, dacoity etc. However subsequently, the Hon'ble Apex Court in **Dimpey Gujral and Ors. vs. Union Territory through Administrator, UT, Chandigarh and Ors.** (2013) 11 SCC 497 has further reiterated that continuation of criminal proceedings would tantamount to abuse of process of law because the alleged offences are not heinous offences showing extreme depravity nor are they against the society. Hon'ble Apex Court further observed that when offences of a personal nature, burying them would bring about peace and amity between the two sides.

10. Hon'ble Apex Court in its judgment dated 4th October, 2017, titled as **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others** versus **State of Gujarat and Another**, passed in Criminal Appeal No.1723 of 2017 arising out of SLP(Crl) No.9549 of 2016,

reiterated the principles/ parameters laid down in **Narinder Singh's** case supra for accepting the settlement and quashing the proceedings.

11. In the case at hand, offences alleged to have been committed by the petitioner are petty in nature and further the parties have entered into compromise with each other. Since the respondents Nos. 3 and 4 are no more interested in pursuing the criminal proceedings against the petitioners, there are bleak and remote chances of conviction of accused and no fruitful purpose shall be achieved by continuing with criminal prosecution of the petitioners as such, this court sees no impediment in accepting the prayer made by petitioners for quashing of FIR.

12. Consequently, in view of the aforesaid discussion as well as law laid down by the Hon'ble Apex Court (supra), FIR No.97, dated 29.9.2022 under Ss. 451, 354, 323 and 34 IPC registered at Police Station Fatehpur, District Kangra, Himachal Pradesh alongwith consequential proceedings pending in the competent court of law are quashed and set aside and petitioners are acquitted of the charges framed against them.

13. The petition stands disposed of in the aforesaid terms, alongwith all pending applications.

Copy Dasti.

(Sandeep Sharma)
Judge

April 28, 2023
(Vikrant)