

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-38863 of 2013

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Date of decision:21.12.2013

Satnam Singh and others

...Petitioners

v.

State of Punjab and others

...Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. J.P.S. Sarao, Advocate for the petitioners.

Ms. Harsimrat Rai, Deputy Advocate General, Punjab
for the respondent-State.

Mr. Joginder Pal Ratra, Advocate for respondents No.2
and 3.

.....

Inderjit Singh, J.

This petition has been filed by petitioners Satnam Singh, Ranjodh Singh and Gurpreet Singh alias Banti under Section 482 Cr.P.C. for quashing of FIR No.60 dated 23.7.2013 (Annexure-P.1) registered for the offences under Sections 354-A, 323, 506 and 34 IPC and, the offence under Section 12 of the Prevention of Children from Sexual Offence Act, 2012 which was added later on, at Police Station Kheri Gandian, District Patiala and all other subsequent proceedings arising therefrom, on the basis of compromise dated 7.11.2013 (Annexure-P.2).

On 9.12.2013, learned Chief Judicial Magistrate, Patiala was directed to send a report with regard to the genuineness/validity or

otherwise of the compromise (Annexure-P2) after recording the statements of all the concerned parties.

In compliance of the above, the learned Chief Judicial Magistrate, Patiala has sent his report vide letter dated 16.12.2013, wherein statements of complainants Harnek Singh and Manjit Singh and accused-petitioner Satnam Singh have been recorded. The complainants have admitted the factum of compromise with the accused-petitioners. They have also admitted that said compromise was effected without any pressure, coercion, threat or inducement and it was executed with their free consent and will and they have no objection if above said FIR is quashed.

Learned Deputy Advocate General, Punjab, on instructions from the Investigating Officer, and learned counsel for complainant-respondents No.2 and 3 admit the factum of compromise and have no objection if the impugned FIR and all other subsequent proceedings arising therefrom are quashed.

I have heard learned counsel for the parties.

The FIR has been registered on the complaint of Harnek Singh for the offences under Sections 354-A, 323, 506 and 34 IPC and, the offence under Section 12 of the Prevention of Children from Sexual Offence Act, 2012 which was added later on. Now with the intervention of respectables from the society as well as common friends, the matter has been compromised. The statements of complainant-respondents No.2 and 3 have already been recorded in that regard by the learned Chief Judicial

Magistrate, Patiala, wherein they have submitted that they have no objection, if the above said FIR and subsequent proceedings of this case are quashed. Since the parties have amicably settled their dispute, the chances of ultimate conviction are bleak.

After giving my thoughtful consideration to the matter, it may be noticed that the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543, has held that the inherent jurisdiction of this Court under Section 482 Cr.P.C. can be exercised to quash the proceedings in respect of criminal cases 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 personnel in nature and the parties have resolved their entire dispute even though they are not compoundable. The Hon'ble Supreme Court after having interpreted the relevant provisions, has held in para 57 of the judgment as follows:-

“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 predominatingly 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

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matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel 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.”

Keeping in view the factum of compromise and the law laid down by the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another (supra), this petition is allowed and FIR No.60 dated 23.7.2013

(Annexure-P.1) registered for the offences under Sections 354-A, 323, 506 and 34 IPC and, the offence under Section 12 of the Prevention of Children from Sexual Offence Act, 2012 which was added later on, at Police Station Kheri Gandian, District Patiala and all other subsequent proceedings arising therefrom are hereby quashed on the basis of compromise dated 7.11.2013 (Annexure-P.2).

December 21, 2013.

(Inderjit Singh)
Judge

hsp