

Ctrl. Misc. No. M-13068 of 2015 & -1-
Ctrl. Misc. No. M-12843 of 2015

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

(1) **Crl. Misc. No. M-13068 of 2015**

Shiv Dayal and others **...Petitioners**

Versus

State of Punjab and others **..Respondents**

(2) **Crl. Misc. No. M-12843 of 2015**

Amit Kumar and another **..Petitioners**

Versus

State of Punjab and another **..Respondents**

Date of decision: - 22.09.2015

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. Ritesh Pandey, Advocate for the petitioners
in 1st case and for respondent No.2 in 2nd case.

Mr. Varun Sharma, A.A.G., Punjab
for respondent No.1.

Mr. Parveen K. Garg, Advocate, for the petitioners
in 2nd case and for respondent Nos.2 and 3 in 1st case.

SHEKHER DHAWAN, J.

As identical questions of law and facts are involved, therefore,

I propose to decide above indicated petitions, arising out of the same

incident/cross-case/FIR, by means of this common judgment, in order to avoid the repetition.

2. Initially in the wake of complaint of complainant Amit Kumar son of Pritam Chand-respondent No.2 (for brevity “the complainant in 1st case”), a criminal case was registered against the petitioners-accused (in 1st case), vide FIR No.249 dated 09.10.2011, under Sections 326, 325, 323, 324, 506 and 34 IPC, registered at Police Station Civil Line Batala, District Gurdaspur.

3. Likewise, in pursuance of separate statement of complainant Shiv Dayal son of Rattan Lal-respondent No.2 (for short 'the complainant in 2nd case'), a criminal cross-case dated 10.10.2011 under Sections 324, 323, 506 and 34 IPC recorded in FIR No.249 dated 09.10.2011, was also registered against petitioners-accused (in 2nd case), registered at Police Station Civil Line Batala, District Gurdaspur.

4. During the course of preliminary hearing, the Illaqa Magistrate, was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise deed dated 02.04.2015, by this Court.

5. In compliance thereof, reports from Magistrate have been received, in which, it has been mentioned that the complainant as well as injured have compromised the matter with the accused persons with their free will and without any coercion or any pressure.

6. An identical question came to be decided by the Hon'ble Supreme Court in case **Gian Singh Versus State of Punjab and another.**

and considered a line of the judgment on the pointed points, it was ruled (para 57) 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 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.”

The same view was again (recently) reiterated by Hon'ble the Apex Court in case Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.

7. Having regard to the contentions of learned counsel for the parties and the fact that the occurrence relating to cross fight on both sides, who have ultimately settled their disputes with the intervention and the compromise shall give an opportunity to them to live peacefully in future as well. Hence, it would be in the interest and justice that parties are allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petitions deserve to be accepted in this context.

8. In view of above, the instant petitions are accepted. Consequently, the impugned FIR No.249 dated 09.10.2011, under Sections 326, 325, 323, 324, 506 and 34 IPC and cross-case dated 10.10.2011, under Sections 324, 323, 506 and 34 recorded in FIR No.249 dated 09.10.2011, registered at Police Station Civil Line Batala, District Gurdaspur and all other consequent proceedings arising thereto, (in both the cross-cases) are hereby quashed, on the basis of compromise.

September 22, 2015

naresh.k

(SHEKHER DHAWAN)

Judge