

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM No. M-23712 of 2014

Date of Decision:-**10.2.2015**

Munish Kumar & Ors.

...Petitioners

Versus

State of Punjab & Ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE MEHINDER SINGH SULLAR

Present:- Mr.D.K.Sihag, Advocate for
Mr.Harsh Neyol, Advocate for the petitioners.
Mr.R.P.S.Sidhu, AAG Punjab for respondent No.1.
Nemo for respondent Nos.2 to 4.

Mehinder Singh Sullar, J. (Oral)

At the very outset, the learned counsel intends to withdraw the instant petition, relatable to Munish Kumar & Sandeep Kumar ss/o Ashok Kumar (petitioner Nos.1 & 2), Lalli alias Lal Chand s/o Ram Gopal (petitioner No.4) and Parveen Kumar s/o Lachmi Narain (petitioner No.5) only, as having become infructuous on account of their exoneration by the police.

2. Dismissed as withdrawn as such, as prayed for.

3. Now the contour of the facts & material, which needs a necessary mention for the limited purpose of deciding the core controversy, involved in the instant petition, relatable to the case of petitioner No.3 Sanjay Kumar s/o Ram Gopal, and emanating from the record, is that initially, in the wake of statement of complainant Subhash Chander s/o Banwari Lal (respondent No.2) (for brevity "the complainant"), a criminal case was registered against him along with his other pointed exonerated accused, vide FIR No.27 dated 22.3.2011 (Annexure P1), on accusation of

having committed the offences punishable u/ss 148, 323 and 452 read with section 149 IPC, by the police of Police Station City-II, Abohar, District Ferozepur.

4. During the course of investigation, petitioner Nos.1, 2, 4 and 5 were found innocent and exonerated by the police. At the same time, after completion of the investigation, the police submitted the final police report (challan) against petitioner No.3 Sanjay Kumar only, he was accordingly charge-sheeted to face the trial of indicated offences and the case was slated for evidence of prosecution by the trial Court.

5. During the pendency of the criminal case, good sense prevailed and the parties have amicably settled their disputes, by virtue of compromise deed dated 3.7.2014 (Annexure P2), affidavits (Annexures P3 to P5) of complainant Subhash Chander, Ashok Kumar and Atma Ram (respondent Nos.2 to 4) respectively.

6. Having compromised the matter, petitioner No.3 has preferred the present petition, to quash the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.PC, inter-alia, pleading that now with the intervention of respectables of the society, the remaining parties have amicably settled their disputes, vide indicated compromise deed (Annexure P2). The complainant and other injured witnesses have reiterated the factum of compromise in their affidavits (Annexures P3 to P5). The parties have decided to put an end to their enmity and litigation. They want to live in peace and harmony in future. They have redressed their grievances and have no grudge against each other. The complainant and other injured witnesses (respondent Nos.2 to 4) have no objection if the criminal case registered against petitioner

No.3, by means of impugned FIR is quashed. On the strength of aforesaid grounds, petitioner No.3 sought to quash the impugned FIR (Annexure P-1) and all other consequent proceedings arising thereto in the manner depicted here-in-above.

7. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise deed (Annexure P2), by way of order dated 9.9.2014 by a Coordinate Bench Anita Chaudhary, J.) of this Court.

8. In compliance thereof, the trial Court, having recorded the statements of all the concerned parties, has reported, by virtue of its report dated 13.10.2014, that the settlement is voluntarily, genuine and without any pressure or coercion.

9. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, by means of compromise deed (Annexure P2), affidavits (Annexures P3 to P5) of complainant and respondent Nos.3 & 4 and the pointed report of the trial Court.

10. What cannot possibly be disputed here is that, the law with regard to the settlement of such disputes, by way of amicable settlement between the parties is no more *res integra* and is now well-settled.

11. An identical question came to be decided by the Hon'ble Supreme Court in case Gian Singh Versus State of Punjab and another, **2012 (4) RCR (Criminal) 543**. Having interpreted the relevant provisions and considered a line of the judgments on the indicated 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.”

12. Likewise, the same view was reiterated by the Hon'ble Apex Court in case Narinder Singh & others v. State of Punjab & Anr. 2014 (2)

RCR (Criminal) 482.

13. Above being the legal position and the material on record, now the short & significant question, though important, that arises for determination in the petition is, as to whether the present criminal prosecution against petitioner No.3 deserves to be quashed in view of the compromise or not ?

14. Having regard to the contentions of the learned counsel, to my mind, it would be in the interest and justice would be sub-served, if the parties are allowed to compromise the matter. Moreover, the learned counsel are *ad idem* that, in view of the settlement of disputes between the parties, the instant petition deserves to be accepted in this respect.

15. As is evident from the record that, now with the intervention of respectables of the society, the remaining parties have amicably settled their disputes, vide indicated compromise deed (Annexure P2). The complainant and other injured witnesses (respondent Nos.2 to 4) have reiterated the factum of compromise in their affidavits (Annexures P3 to P5). The parties have decided to put an end to their enmity and litigation. They have redressed their grievances and have no grudge against each other. They want to live in peace and harmony in future. The settlement is stated to be in the welfare and benefit of the parties in particular and in larger public interest of the society in general. The complainant and other injured witnesses have no objection if the criminal case registered against petitioner No.3, by means of impugned FIR is quashed. The factum and genuineness of the compromise between the parties is also reiterated by the trial Court in its indicated report.

16. Therefore, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating

their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Thus, to me, the ratio of the law laid down and the bench-mark set out by the Hon'ble Supreme Court in cases of **Gian Singh & Narinder Singh & Ors. (supra)**, “mutatis mutandis” is applicable to the facts of the present case and is the complete answer to the problem in hand. Similarly, the impugned FIR (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case.

17. In the light of the aforesaid reasons, the instant petition is accepted. Consequently, the impugned FIR No.27 dated 22.3.2011 (Annexure P-1) and all other consequent proceedings arising thereto, are hereby quashed. Petitioner No.3 Sanjay Kumar is accordingly acquitted of the charges framed against him in the indicated criminal case on the basis of compromise, subject to all just exceptions.

(Mehinder Singh Sullar)
Judge

10.2.2015
AS