

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Criminal Misc. No.M-25268 of 2014
Date of Decision: 19th February, 2015

Ram Niwas and others

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: Hon'ble Mrs. Justice Daya Chaudhary

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Suresh Ahlawat, Advocate
for the petitioners.

Mr. Deepak Sabharwal, Addl. A.G., Haryana.

Mr. Jitender Nara, Advocate
for respondent No.2.

DAYA CHAUDHARY, J.(Oral)

The present petition under Section 482 Cr.P.C. has been filed on behalf of petitioners, namely, Ram Niwas, Sanjay and Satish for quashing of FIR No. 156 dated 27.06.2014, registered under Sections 307, 34 IPC and 25, 54, 59 of Arms Act at Police Station Beri, District Jhajjar, on the basis of compromise arrived at between the parties.

Learned counsel for the petitioners submits that with the intervention of the respectables of the locality, a compromise has been arrived at between the parties and the complainant is not interested in pursuing the proceedings against the petitioners and no challan has

been presented so far. Learned counsel also submits that none of the petitioners is declared P.O. and no other case is pending against them.

Learned counsel for respondent No.2 has also affirmed the factum of compromise.

Notice of motion was issued on 28.07.2014 and the parties were directed to appear before the trial Court on 12.08.2014 for recording of their statements with regard to compromise. The trial Court was also directed to send a report as to whether the compromise arrived at between the parties is genuine and without any pressure from either side.

In response to the aforesaid direction, the parties have appeared before the Additional Chief Judicial Magistrate, Jhajjar and accordingly their statements were recorded. A report has been sent by the Additional Chief Judicial Magistrate, Jhajjar, wherein, the factum of compromise has been affirmed. Parties to the dispute have specifically stated in their statements that the compromise has been arrived at between them and now they do not want to proceed further with the proceedings. It has also been mentioned therein that the compromise is as per their free will and without any pressure from either side. It has also been mentioned in the report that no P.O. proceedings are pending against the parties.

After hearing learned counsel for the parties and on perusal of the statements recorded by the Additional Chief Judicial Magistrate, Jhajjar, it is clear that the dispute between the parties has been settled.

Since the dispute between the parties has been settled by way of compromise and the complainant has no objection in quashing of the FIR on the basis of compromise, continuation of proceedings

would be a futile exercise as the complainant is not going to support the case of the prosecution and that would not only be mere wastage of the time of the Court but it would also not be in the interest of both the parties. The purpose of compromise is to maintain peace and harmony in the relations and not for any ulterior motive. This Court has power to quash the criminal proceedings even in non-compoundable offences on the basis of compromise.

A larger Bench of this Court in ***Kulwinder Singh vs State of Punjab 2007(3) RCR Criminal 1052*** has also observed that the proceedings can be quashed even in case of non-compoundable offences, in case, the compromise is there between the parties. The observations of this Court are reproduced as under :-

“ Criminal Procedure Code, Section 320(9) – Criminal Procedure Code, Section 482 – Compounding of offences which are non-compoundable under Section 320(9) Cr.P.C. - Offence non-compoundable, but parties entering into compromise-High Court has power under Section 482 Cr.P.C allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any court or to otherwise secure the ends of justice – This power of quashing is not confined to matrimonial disputes alone.”

The Hon'ble Apex court in ***Gian Singh vs. State of Punjab and another 2012(4) RCR (Criminal) 543*** has laid down that compounding of offence and quashing of criminal proceedings are two separate things and are not interchangeable. It has also been mentioned that two powers are distinct and different but ultimate consequence may be the same. It has also been held that where the offender and victim have settled their dispute, the High Court in

exercise of its inherent power under Section 482 Cr.P.C is competent to quash the criminal proceedings even in case of non-compoundable offences. No doubt, the powers under Section 482 Cr.P.C are to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The Apex Court has held as under :-

“ It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceedings or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt,

crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

The aforesaid decision in *Gian Singh's case (supra)* finds support with the view taken by a five-Judge Bench of this Court in *Kulwinder Singh's case (supra)*.

In the present case also, the parties have compromised their dispute and the complainant has no objection in quashing of the FIR.

While exercising powers under Section 482 Cr.P.C. as well as keeping in view the fact that the compromise has been arrived at between the parties as per their free will and there is no pressure from either side, the present petition is allowed and the impugned criminal proceedings arising out of FIR No. 156 dated 27.06.2014, registered under Sections 307, 34 IPC and 25, 54, 59 of Arms Act at Police Station Beri, District Jhajjar, as well as all subsequent proceedings arising therefrom qua, petitioners, namely, Ram Niwas, Sanjay and Satish are hereby quashed.

19.02.2015
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(DAYA CHAUDHARY)
JUDGE