

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Criminal Misc. No.M-25865 of 2014
Date of Decision: 20th January, 2015

Jagir Dass and another

....Petitioners

Versus

State of Punjab and another

....Respondents

AND

Criminal Misc. No.M-25867 of 2014
Date of Decision: 20th January, 2015

Sikandar Kumar and others

....Petitioners

Versus

State of Punjab and others

....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. Vipin Mahajan, Advocate
for the petitioners in CRM-M-25865 of 2014 and
for respondents No.2 to 4 in CRM-M-25867 of 2014.

Mr. Vishal Munjal, Advocate
for the petitioners in CRM-M-25867 of 2014 and
for respondent No. 2 in CRM-M-25865 of 2014.

Mr. P.S. Ghuman, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.(Oral)

This judgment shall dispose of two petitions bearing
Nos.CRM-M-25865 of 2014 titled as 'Jagir Dass and another Vs. State of
Punjab and another' and CRM-M-25867 of 2014 titled as 'Sikandar

Kumar and others Vs. State of Punjab and others' as it is a case of version and cross-version. Both the petitions have been filed for quashing of FIR as well as cross-version as during pendency of the proceedings, a compromise has been arrived at between the parties.

CRM-M-25865 of 2014 has been filed by the petitioners, namely, Jagir Dass and Sulakhan Chand under Section 482 Cr.P.C. for quashing of FIR No.34 dated 08.05.2014, registered under Sections 326, 324, 34 IPC, at Police Station Batala, District Gurdaspur, Punjab and all other consequential proceedings arising out of the said FIR on the basis of compromise dated 30.06.2014.

CRM-M-25867 of 2014 has been filed by the petitioners, namely, Sikandar Kumar, Surinder Kumar @ Shinda, Malkiat Singh, Joga and Sukhpreet Singh @ Sonu for quashing of cross-version registered vide DDR No.28 dated 08.05.2014 under Sections 452, 324, 323, 148, 149 IPC in the aforesaid FIR.

Learned counsel for the petitioners submits that the compromise has been arrived at between the parties during pendency of the proceedings and both the parties have now no objection in quashing of the FIR as well as cross version.

While issuing notice of motion on 01.08.2014, directions were issued to the parties to appear before the trial Court for recording of their statements with regard to compromise. The trial Court was also directed to send its report along with statements of the parties and to see whether the compromise effected between the parties is genuine and without any pressure or not.

In response to the aforesaid directions, the parties have appeared before the trial Court and accordingly their statements were

recorded. A report along with statements of the parties has been sent by the trial Court, wherein, the factum of compromise has been affirmed. Parties to the dispute, in both the cases, have specifically stated in their respective statements that the compromise has been arrived at between them and now they do not want to proceed with the proceedings in future. It has also been mentioned therein that the compromise is as per their free will and without any pressure from either side. The purpose of compromise is to maintain peace, harmony in the relations and no other case is pending against either of the parties. It has also been mentioned in the report sent by Judicial Magistrate 1st Class, Batala that no P.O. proceedings are pending against the parties. In FIR case, the complainant-Sikander Singh has stated that he has no objection in quashing of the FIR. Similarly, in cross-version case, Simranjit Kaur, Jagir Dass and Kaushalaya have stated that they have no objection in quashing of the cross-version case and other proceedings initiated against the petitioners.

Learned counsel for the petitioners as well as for the respondents, in both the cases, submit that the FIR and cross-version were registered due to misunderstanding between the parties and subsequently, the dispute between them has been settled. The object of the compromise is to maintain peace and harmony in the relations as both the parties are residents of the same village. The parties are not habitual offenders as there is no other case pending against them. Both the parties have agreed not to pursue the proceedings initiated against each other.

Since the dispute between the parties has been settled by way of compromise and the petitioners as well as complainant have no

objection in quashing of the FIR as well as cross version, the continuation of the proceedings would be an exercise in futility which would not only be the wastage of valuable time of the Court but it would also not be in the interest of both the parties. This Court has power to quash the proceedings 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 complainants have no objection in quashing of the FIR as well as cross-version.

In view of the facts as mentioned above, the present petitions are allowed and the impugned criminal proceedings arising out of FIR No.34 dated 08.05.2014, registered under Sections 326, 324,

34 IPC, at Police Station Batala, District Gurdaspur, Punjab against the petitioners, namely, Jagir Dass and Sulakhan Chand and cross-version registered vide DDR No.28 dated 08.05.2014 under Sections 452, 324, 323, 148, 149 IPC in aforesaid FIR against the petitioners, namely, Sikandar Kumar, Surinder Kumar @ Shinda, Malkiat Singh, Joga and Sukhpreet Singh @ Sonu, are hereby quashed.

20.01.2015
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(DAYA CHAUDHARY)
JUDGE