

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

251 Criminal Misc. No.M-29534 of 2014

Taranjeet Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

AND

Criminal Misc. No.M-39770 of 2014

Kulwinder Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

Date of Decision: 20th February, 2015

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. Harvinder Singh, Advocate for
Mr. Ashok Tyagi, Advocate
for the petitioners in CRM-M-29534 of 2014 and
for respondents No.2 to 4 in CRM-M- 39770 of 2014.

Mr. Maninder Singh, Advocate
for the petitioners in CRM-M- 39770 of 2014 and
for respondents No. 2 to 4 in CRM-M- 29534 of 2014.

Mr. T.N. Sarup, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.(Oral)

This judgment shall dispose of two petitions bearing Nos.CRM-M-29534 of 2014 titled as 'Taranjeet Singh and others vs. State of Punjab and others' and CRM-M-39770 of 2014 titled as 'Kulwinder Singh 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-29534 of 2014 under Section 482 Cr.P.C. has been filed by the petitioners, namely, Taranjeet Singh, Darshan Singh, Paramjeet Singh, Inderpal Singh @ Pala, Pritam Singh and Inderjeet Singh for quashing of FIR No.82 dated 18.08.2013, registered under Sections 324, 323, 148, 149 IPC, at Police Station Amloh, District Fatehgrah Sahib and all other consequential proceedings arising out of the said FIR on the basis of compromise.

CRM-M-39770 of 2014 under Section 482 Cr.P.C. has been filed by the petitioners, namely, Kulwinder Singh, Harchand Singh, Chhaju Singh, Jagvinder Singh @ Budhu and Jagpal Singh @ Jagga for quashing of cross-version registered vide DDR No.26 dated 18.08.2013 under Sections 341, 323, 506, 148, 149 IPC in the aforesaid FIR.

Learned counsel for respondents No.2 to 4 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.

Notice of motion was issued on 28.08.2014. Vide order dated 13.11.2014, the parties were directed to appear before the Illaqa Magistrate on 28.11.2014 for recording of their statements with regard to compromise. The Illaqa Magistrate 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 Judicial Magistrate Ist Class, Amloh and

accordingly their statements were recorded. A report along with statements of the parties has been sent by the Judicial Magistrate Ist Class, Amloh, wherein, the factum of compromise has been affirmed. The 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 and no other case is pending against either of the parties. It has also been mentioned in the report sent by the Judicial Magistrate Ist Class, Amloh that no P.O. proceedings are pending against the parties.

Learned counsel for respondents No.2 to 4 submits 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.

Learned State counsel submits that the cancellation report has been prepared and the same is pending before the higher authority and is likely to be presented before the Court.

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 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, 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.82 dated 18.08.2013, registered under Sections 324, 323,

148, 149 IPC, at Police Station Amloh, District Fatehgrah Sahib against the petitioners, namely, Taranjeet Singh, Darshan Singh, Paramjeet Singh, Inderpal Singh @ Pala, Pritam Singh and Inderjeet Singh and cross-version registered vide DDR No.26 dated 18.08.2013 under Sections 341, 323, 506, 148, 149 IPC in aforesaid FIR against the petitioners, namely, Kulwinder Singh, Harchand Singh, Chhaju Singh, Jagvinder Singh @ Budhu and Jagpal Singh @ Jagga, are hereby quashed.

20.02.2015
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(DAYA CHAUDHARY)
JUDGE