

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

Crl. Misc. No.M-38668 of 2014

Date of Decision: 06.01.2015

Sulakhan Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

Crl. Misc. No.M-38751 of 2014

Gurvinder Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. L.S. Mann, Advocate
for the petitioners
in ***Criminal Misc. No.M-38668 of 2014***
for respondents No.2 and 3
in ***Criminal Misc. No.M-38751 of 2014.***

Mr. Prashant Sethi, Advocate
for the petitioners
in ***Criminal Misc. No.38751 of 2014***
for respondents No.2 to 4
in ***Criminal Misc. No.M-38668 of 2014.***

Mr. T.N. Sarup, Addl. A.G., Punjab
for the respondent-State.

DAYA CHAUDHARY, J. (ORAL)

By this judgment, both the petitions bearing ***Criminal Misc. No.M-38668 of 2014*** and ***Criminal Misc. No.M-38751 of 2014*** shall be disposed of as it is a case of version and cross version and during

pendency of the proceedings, a compromise has been arrived at between the parties. Both the petitions have been filed for quashing of FIR as well as cross version on the basis of compromise. However, for the sake of convenience, the facts are being derived from ***Criminal Misc. No.M-38668 of 2014.***

Criminal Misc. No.M-38668 of 2014 has been filed by petitioners-Sulakhan Singh, Mahinder Kaur alias Mindho, Shinder Singh, Kulwinder Singh alias Bagga, Jaswinder Singh alias Jassa, Harjinder Singh, Raj Kaur, Jarnail Singh and Seelo Bai for quashing of FIR No.108 dated 18.10.2011 registered under Sections 323/452/148/149 IPC at Police Station Mehetpur, District Jalandhar, Rural and all other consequential proceedings arising out of the said FIR on the basis of compromise dated 30.10.2014.

Criminal Misc. No.M-38751 of 2014 has been filed by petitioners-Gurvinder Singh, Lakhwinder Singh, Harpinder Kaur @ Rupinder Kaur alias Rajveer Kaur, Rajwinder Kaur @ Rajveer Kaur and Mahinder Kaur alias Mindho for quashing of cross version under Sections 341/323/148/149 registered in said FIR.

Learned counsel for the petitioners submits that the compromise was 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 in the case was issued on 14.11.2014 and the directions were issued by this Court to the parties to appear before the trial Court for recording of their statements with regard to compromise.

In response to the said directions, the parties appeared before the trial Court and their statements were accordingly recorded. A report along with statements of the parties have 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 and brotherhood between them and no other case is pending against either of the parties. It has also been mentioned in the report sent by Judicial Magistrate Ist Class, Nakodar that no P.O proceedings are pending against the parties. In the statements of the petitioners as well as complainants in both the case, it has also been stated that they have no objection in quashing of FIR as well as cross version.

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. There was a matrimonial dispute and due to that, the FIR as well as cross-version has been registered. 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 will not only be the wastage of valuable time of the Court but it would also be not in the interest of both the parties. The continuation of the proceedings would be abuse of process of Court and the same would not be in the interest of justice. 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 crimedoeer 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 petition is allowed and the impugned criminal proceedings arising out of F.I.R. No.108 dated 18.10.2011 registered under Sections 323, 452, 148 and 149 IPC qua petitioners, namely, Sulakhan Singh, Mahinder Kaur alias Mindho, Shinder Singh, Kulwinder Singh alias Bagga, Jaswinder Singh alias Jassa, Harjinder Singh, Raj Kaur, Jarnail Singh and Seelo Bai as well as cross version under Sections 341/323/148/149 arising out of the aforesaid FIR qua petitioners, namely, Gurvinder Singh, Lakhwinder Singh, Harpinder

Kaur @ Rupinder Kaur alias Rajveer Kaur, Rajwinder Kaur
@ Rajveer Kaur and Mahinder Kaur alias Mindho are quashed.

06.01.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE