

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

CRM-M-42329 of 2014
Date of Decision: 02.03.2015

Gurdhian Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mr. G.L. Bajaj, Advocate
for the petitioners.

Mr. Ashish Sanghi, DAG, Punjab.

SNEH PRASHAR, J.

This petition under Section 482 Cr.P.C has been filed for quashing of the FIR No.138 dated 03.10.2014, under Sections 498-A/406 IPC, registered at Police Station Dirbha, District Sangrur and all the subsequent proceedings arising therefrom on the basis of compromise dated 08.10.2015 and 13.10.2010

Report dated 21.01.2015, of the Court of Judicial Magistrate Ist Class, Sunam, has been received according to which complainant Hardeep Kaur appeared in the said Court on 19.01.2015. Her statement was recorded wherein she stated

that she has arrived a settlement with her husband etc accused and has no objection if the FIR got registered by her and the subsequent proceedings arising from the same are quashed. The magistrate has also mentioned that perusal of the compromise reveals that the complainant has compromised the matter with the accused. The compromise is voluntarily and with free will and without any coercion undue influence or fear. (She has no objection if the FIR lodged at her instance and the subsequent proceedings are quashed).

In the above premises, since the parties have arrived at a legal compromise, in my considered opinion no useful purpose would be served in continuing the proceedings. In **Narinder Singh and others Versus State of Punjab and another** 2014 (6) Supreme Court Cases, 466, the Hon'ble Apex Court finding this Court competent to quash the proceedings on the basis of compromise has laid down as under:

"31. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the

settlement with direction to continue with the criminal proceedings:

(I) Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

(II) When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

(III) Such a power is not to be exercised in

those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

(IV) On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

(V) While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and

prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

(VI) Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie

analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge

sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here

charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime. "

Accordingly, this petition is allowed and FIR No.138 dated 03.10.2014 (Annexure P-1) registered under Sections 498-A/406 IPC at police Station Dirbha, District Sangrur and all consequential proceedings arising therefrom are hereby quashed qua the petitioners.

March 02, 2015
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(SNEH PRASHAR)
JUDGE