

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

Crl. Misc. No.M-526 of 2014

Date of Decision: 16.01.2015

Harjinder Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

BEFORE :- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

Present:- Mr. Amit Saini, Advocate
for Mr. G.S.Nahel, Advocate
for the petitioners.

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

Ms. Jatinder Kaur, Advocate
for respondent No.2.

DAYA CHAUDHARY, J. (ORAL)

The present petition has been filed by the petitioners, namely, Harjinder Singh, Jatinder Singh, Bikram Singh @ Vikram Singh and Ramanjit Singh for quashing of FIR No.213 dated 15.11.2013 registered under Sections 307, 323, 341, 506, 148, 149 IPC as well as under Sections 27, 54 and 59 of the Arms Act at Police Station Dirbha, District Sangrur and all other consequential proceedings arising out of the said FIR on the basis of compromise.

Learned counsel for the petitioners submits that the offence under Section 307 of the IPC was deleted subsequently during pendency of the proceedings as a compromise was arrived at between the parties and the complainant/injured has no objection in quashing of the FIR, in dispute, as well as other proceedings arising therefrom.

Notice of motion in the case was issued on 10.01.2014 and thereafter, vide Order dated 08.08.2014, the parties were directed to appear before the Illaqa Magistrate for recording of their statements with regard to compromise.

In response to the said directions, the parties appeared before the Illaqa Magistrate and their statements were accordingly recorded. A report along with statements of the parties have been sent by the Illaqa Magistrate, wherein, the factum of compromise has been affirmed. It has also been mentioned therein that the compromise is genuine and is without any pressure from either side. Only the complainant is injured in this case and he has specifically stated in his statement that he has no objection in quashing of the FIR as well as other proceedings arising therefrom.

As per report of the Additional Ahlmad, neither P.O proceedings against the accused are pending nor any other case is there against either of the parties.

Since the dispute between the parties has been settled by way of compromise and complainant/injured has no objection in quashing of the FIR, 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 not also be in the interest of both the parties and would be abuse of process of Court. 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 complainant has no objection in quashing of the FIR as well as other proceedings arising therefrom.

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.213 dated 15.11.2013 registered under Sections 323, 341, 506, 148, 149 IPC as well as Sections 27, 54 and 59 of the Arms Act (offence under Section 307 IPC has already been deleted) qua petitioners Harjinder Singh, Jatinder Singh, Bikram Sigh @ Vikram Singh and Ramanjit Singh are quashed.

16.01.2015
gurpreet

(DAYA CHAUDHARY)
JUDGE