

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-35110 of 2016

.....

Date of decision:20.10.2016

Amrik Singh and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Navkiran Singh, Advocate for the petitioners.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.103 dated 23.7.2013 (Annexure-P.1) registered for the offence under Section 306 IPC at Police Station Shimlapuri, Distt. Ludhiana and all other subsequent proceedings arising therefrom, on the basis of compromise dated 7.9.2016 (Annexure-P.3).

I have heard learned counsel for the petitioners and have gone through the record.

The present FIR has been got registered for the offence under Section 306 IPC by Iqbal Singh father of the deceased against the present petitioners.

The brief facts of the case are that complainant's son, namely, Kulwant Singh was got married with Givandeep Kaur daughter of

petitioners No.1 and 2 on 21.10.2012. As per the allegations in the FIR, right from the day of marriage, Givandeep Kaur started harassing the son of the complainant and she did not keep cordial relationship with Kulwant Singh (since deceased) as well as her entire family members and her maternal aunt and uncle (petitioners No.3 and 4) used to tease Kulwant Singh on the pretext that he is an impotent and on 19.7.2013 Givandeep Kaur and petitioners came to the house of the complainant at about 2.30 p.m. and they all started quarrelling with Kulwant Singh and again started taunting that he is impotent and the whole incident was witnessed by neighbours, who were pacified by them, but Kulwant Singh could not tolerate his insult and on the same night he jumped into a canal and his dead body was recovered on 23.7.2013.

Keeping in view the nature and gravity of the offence and the fact that Kulwant Singh had already committed suicide and the compromise is stated to be with his father and in view of the law laid down by the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543, this FIR is not liable to be quashed. The Hon'ble Supreme Court in the above case after discussing the law on the point has been held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under

Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc., cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the

offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

After going through the above findings of the Hon'ble Supreme Court, I find that the present offence is a heinous and serious offence and keeping in view the nature and gravity of the crime, I do not find it a fit case where the FIR should be quashed on the ground of compromise.

In my view, in such type of cases, it is not in the interest of justice to quash the FIR. In no way, the continuation of the criminal proceedings would tantamount to abuse of the process of law. Rather, it would be unfair to quash the proceedings in such type of serious cases, only on the basis of compromise and it will send wrong signal to the society.

Keeping in view the facts and circumstances of the present case and the law laid down by Hon'ble Supreme Court, I do not find it a fit case where the FIR should be quashed. Therefore, the criminal miscellaneous petition is dismissed.

October 20, 2016.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No