

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

**CRM-M-13725-2017 (O&M)
Date of decision: - 30.10.2017**

Kulbir Kaur @ Kulbir Devi and another **.....Petitioners**

versus

State of Haryana and ors **.....Respondents**

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Deepam Raghava, Advocate for petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Saurabh Bhardwaj, Advocate
for respondent No. 2.

Mr. Sunny Singla, Advocate
for respondent No. 3.

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ARVIND SINGH SANGWAN, J (ORAL)

This is a petition under Section 482 Cr. P.C. for quashing of the FIR No. 39 dated 2.5.2015, under Sections 406, 420, 468, 471, 506 IPC, registered at Police Station Jhansa, District Kurukshetra and all subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners submits that in pursuance to the order dated 20.9.2017, parties have appeared before the trial Court and recorded their statements.

Learned District Sessions Judge, Kurukshetra has forwarded the report of Judicial Magistrate Ist Class, Kurukshetra dated 7.10.2017. As per the said report, complainant -Manjeet Kaur has compromised the matter with accused Kulbir Kaur and Jarnail Singh, petitioners No. 1 and 2 and Satnam Singh, respondent No.3.

Statements of both the parties have been recorded and none of the accused was found to be proclaimed offender.

The statement of petitioner No. 2-Jarnail Singh was recorded earlier on 2.12.2016 and as per the statement of Manjeet Kaur- complainant, recorded by the trial Court on 6.10.2017, it is clear that she has compromised the matter with all the three accused persons i.e. Kulbir Kaur @ Kulbir Devi and Jarnail Singh, petitioners No. 1 and 2 and Satnam Singh-respondent No. 3.

It is further submitted that FIR qua co-accused Satnam Singh, who is arrayed as respondent No. 3 stands quashed by this Court vide order dated 21.10.2016 passed in CRM-M-11814-2016, Satnam Singh vs. State of Haryana and ors, in which following orders were passed: -

“ Heard, learned counsel for the petitioner.

In FIR No.39 dated 02.05.2015, under Sections 406, 420, 468, 471, 506 of Indian Penal Code (for short 'IPC') registered at Police Station Jhansa, District Kurukshetra, the petitioner has been prosecuted. I have seen the FIR inquestion. Indeed the allegations are that the petitioner has duped the complainant for an amount of Rs.7,00,000/- on the pretext to send her son to U.S.A.

Now, there is a compromise (Annexure P-2) arrived at between the parties. I have seen the compromise.

Since, complainant-Manjeet Kaur has decided to enter into the compromise, I think it will be of no use to continue the prosecution of the petitioner as the complainant would turn hostile in the Court and thus, the trial would be entire waste.

In that view of the matter, I am inclined to allow the compounding/compromise on the basis of compromise (Anneuxre P- 2).

Hence, this petition is allowed and FIR No.39 dated 02.05.2015, under Sections 406, 420, 468, 471, 506 of Indian Penal Code (for short 'IPC') registered at Police Station Jhansa, District Kurukshetra along with all consequential proceedings, are quashed by way of compounding/compromise qua the petitioner only.”

In view of the fact that since the offences in the present FIR fall in the category where the matter can be compounded in view of the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, wherein, it is held that High Court has power under Section 482 Cr.P.C. to 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.

Hon'ble the Apex Court in the case of **Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 543**, has 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 predominatingly 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 personal 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.”

Accordingly, this petition is allowed. FIR No. 39 dated 2.5.2015, under Sections 406, 420, 468, 471, 506 IPC, registered at Police Station Jhansa, District Kurukshetra and all the subsequent proceedings, arising therefrom are ordered to be quashed qua petitioners No. 1 and 2 i.e. Kulbir Kaur @ Kulbir Devi and Jarnail Singh.

30.10.2017
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No