

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16946 of 2017

Date of Decision: August 04, 2017

Tinesh Kumar and another

.....Petitioners

Versus

State of Punjab and another

.....Respondent

CORAM:HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:

Mr.Aayush Gupta, Advocate
for the petitioners.

Mr. Randeep Singh Khaira, Assistant Advocate
General, Punjab.

Mr.Raghav Sharma,Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

Petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.217 dated 26.11.2011, under Sections 420, 467, 468, 461, 120-B of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station City Tabri District Ludhiana Rural (Annexure P1) and all consequential proceedings arising therefrom, on the basis of compromise dated 21.4.2016 (Annexure P2).

Vide order dated 16.5.2017, a direction was given to the trial Court to record the statements of the parties and submit a report regarding the genuineness of the compromise effected between the parties

viz-a-viz number of accused involved in this case and whether any of the accused has been declared proclaimed offender.

In pursuance thereof, the trial Court has submitted a report dated 25.7.2017, after recording the statements of the parties, that the complainant-Harinder Pal Singhand accused- Ram Kishan and Tinesh Kumar have appeared along with their respective counsel, who had identified them and got their statement recorded acknowledging that the compromise had been effected voluntarily, without any coercion or any undue influence. This fact is not disputed by learned State Counsel, who has submitted, on instructions from Assistant Sub Inspector-Rajender Singh, that the petitioner is not the proclaimed offender.

As per the Full Bench judgement of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, 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 pre-

dominatingly 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.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No.217 dated 26.11.2011, under Sections 420, 467, 468, 461, 120-B IPC registered at Police Station City Tabri District Ludhiana Rural (Annexure P1) and all the consequential proceedings, arising therefrom, are ordered to be quashed qua the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

August 04, 2017
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Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No