

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

**CRM No.M-18501 of 2017
Decided on: 24.10.2017**

Deepu @ Kuldeep Kumar

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Himanshu Puri, Advocate for the petitioner.

Ms. Rajni Gupta, Sr. DAG, Punjab.

Mr. P.P.S. Bajwa, Advocate
for Mr. Sunny K. Singla, Advocate
for respondents No.2 and 3.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner has prayed for quashing of FIR No.140 dated 10.08.2011, for offence punishable under Sections 323, 324, 148, 149, 307 read with Section 34 of the Indian Penal Code (in short 'IPC') registered in Police Station Kapurthala City, District Kapurthala and all subsequent proceedings arising therefrom on the basis of compromise (Annexure P2) effected between the parties.

Counsel for the petitioner has submitted that 04 co-accused namely Surinder Singh @ Raman, Sher Singh @ Shera, Punjab Singh @ Punjaba and Anmol Singh @ Mohli have faced the trial and were acquitted by the trial Court vide its judgment dated 13.11.2013 and another set of co-accused namely Bikramjit Singh @ Raja, Anil Kumar, Joginder Singh @ Chibba, Sukhdev Singh @ Laddu, Sodhi @ Kalu and Piyara Lal who faced another trial were also acquitted by the trial Court vide judgment dated 09.12.2016. It is submitted by counsel for the

petitioner that in total there were 11 accused out of which 10 accused have already been acquitted by the trial Court in 02 separate trials and the prosecution has failed to prove that offence under Section 307 is made out. It is further submitted that the petitioner – Deepu @ Kuldeep Kumar has compromised the matter with the complainant/respondent No.2 – Karan Singh Gill and respondent No.3 – Amit Gill and in pursuance to the direction given by this Court on 08.09.2017, the parties have got their statements recorded before the trial Court.

As per the report submitted by the Chief Judicial Magistrate, Kapurthala dated 13.10.2017, both the parties appeared and got their statements recorded that they have entered into a valid and legal compromise which is genuine and without any coercion or pressure. The trial Court has also submitted that as per the statement made by ASI Satnam Singh, the Investigating Officer of the case, the petitioner was never declared as proclaimed offender in the present case.

Counsel for the petitioner has further submitted that no other criminal case is pending between the petitioner and the respondents.

Counsel for the State has not disputed that the parties have arrived at a settlement with an intent to give burial to their differences. She further submits that no PO proceedings are pending against the petitioner.

I have heard counsel for the parties and perused the case file.

As per the Full Bench judgment 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 (Criminal) 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.”

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.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.140 dated 10.08.2011 for offence punishable under Sections 323, 324, 148, 149, 307 read with Section 34 IPC registered in Police Station Kapurthala City, District Kapurthala and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

24.10.2017
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No