

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision: - 25.10.2017

(1) CRM-M-18531-2017 (O&M)

Kuldeep Singh and ors

.....Petitioners

versus

State of Punjab and ors

.....Respondents

(2) CRM-M-33338-2017 (O&M)

Inderjit Singh @ Bholu and anr

.....Petitioners

versus

State of Punjab and anr

.....Respondents

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

Present: - Mr. Kamal Singh, Advocate for petitioners.
(CRM-M-18531-2017) and
for respondent No. 1 (CRM-M-33338-2017)

Mr. S.S. Sodhi, Advocate for petitioners.
(CRM-M-33338-2017) and
for respondents (CRM-M-18531-2017)

Mr. Amandeep Singh Gill, Sr. DAG, Punjab.

ARVIND SINGH SANGWAN, J (ORAL)

This order shall dispose of above mentioned both the petitions i.e. CRM-M-18531-2017 and CRM-M-33338-2017. For brevity, the facts are being taken from CRM-M-18531-2017.

Prayer in aforesaid petitions is for quashing of the FIR No. 206 dated 17.11.2013 under Sections 323, 452, 506, 148, 149 IPC and 325 IPC added later on, as well as cross version i.e. DDR No. 16 dated 17.11.2013 under Sections 324, 323, 34 IPC, registered at Police Station Samrala, Police District Khanna along with consequential proceedings arising therefrom on the basis of compromise dated 18.5.2017 (Annexure P-2).

Vide order dated 23.5.2017 passed in CRM-M-18531-2017, parties were directed to appear before the trial Court for recording of their statements. The trial Court has recorded the statements of the parties, wherein, both parties have stated that they have compromise the matter in FIR No. 206 dated 17.11.2013 as well as in DDR No. 16 dated 17.11.2013, being version and cross-version. Trial Court vide its report dated 4.7.2017 has reported that matter in FIR No. 206 dated 17.11.2013 stands compromised and there are no proclamation proceedings pending against any of the parties.

Subsequently, CRM-M-33338-2017, was filed in which notice of motion was issued on 11.9.2017, to be listed along with CRM-M-18531-2017. Since, the trial Court has recorded the statement of all the parties, who are accused/complainant(s) in version and cross-version, I do not find it appropriate to direct the parties to re-record their statements qua DDR No. 16 dated 17.11.2013 as it is apparent from the report of trial Court dated 4.7.2017 that while recording the statements, both parties on 13.6.2017, have clearly stated that they have compromised the matter regarding the FIR No. 206 as well as DDR No. 16 dated 17.11.2013 and therefore, both the parties have acknowledged that there is a valid compromise with regard to version and cross-version.

In view of 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 (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, both petitions i.e. CRM-M-18531-2017 and CRM-M-33338-2017 are allowed. FIR No. 206 dated 17.11.2013 under Sections 323, 452, 506, 148, 149 IPC and 325 IPC added lateron, as well as cross version i.e. DDR No. 16 dated 17.11.2013 under Sections 324, 323, 34 IPC, registered at Police Station Samrala, District Khanna along with consequential proceedings arising therefrom are ordered to be quashed qua the petitioners.

A photocopy of this order be placed on the connected file.

(ARVIND SINGH SANGWAN)
JUDGE

25.10.2017
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Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No