

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

**CRM-M-19472-2017 (O&M)
Date of decision: - 30.10.2017**

Vinod Kumar

.....Petitioner

versus

State of Punjab and another

.....Respondents

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

Present: - Mr. Dheeraj Mahajan, Advocate for the petitioner.

Mr. Sandeep Virmani, Addl. AG, Punjab.

Mr. Karan Gupta, Advocate for respondent No. 2.

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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. 165 dated 6.10.2014 under Sections 420 IPC, registered at Police Station City Batala, Police District Batala, District Gurdaspur, Punjab (Annexure P-1) on the basis of compromise (Annexure P-2).

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

Trial Court has submitted a report dated 7.10.2017 acknowledging that parties have entered into a valid compromise of their own free will and neither any accused is declared proclaimed offender nor such proceedings are pending.

As per statement of complainant-Bimla Rani, she has arrived into a legal and valid compromise with the sole accused i.e. petitioner -Vinod

Kumar and has no objection if the present FIR is quashed. It is also stated that

complainant and accused belong to same locality and have resolved their dispute and compromise is in interest and welfare of both the parties to improve their relationship in future.

Since the offence under Section 420 IPC falls in the category which can be compounded as per the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, where 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. 165 dated 6.10.2014 under Sections 420 IPC, registered at Police Station City Batala, Police District Batala, District Gurdaspur, Punjab (Annexure P-1) and all the subsequent proceedings, arising therefrom are ordered to be quashed qua petitioner-Vinod Kumar.

(ARVIND SINGH SANGWAN)
JUDGE

30.10.2017