

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

**CRM-M-23347-2017 (O&M)
Date of decision: - 11.10.2017**

Atul Jindal

.....Petitioner

versus

State of Punjab and another

.....Respondents

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

Present: - Mr. Nitin Jain, Advocate for the petitioner.

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

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

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for quashing of the FIR No. 112 dated 13.7.2012 registered under Sections 420, 465, 468, 471, 120-B, IPC, registered at Police Station Mataur, SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of compromise.

Vide order dated 6.7.2017, parties were directed to appear before the trial Court for recording of their statements. Trial Court has submitted a report dated 22.8.2017 and as per the report, petitioner -Atul Jindal and complainant-Kharaiti Lal have appeared before the trial Court and made their statements respectively that they have entered into a valid compromise and complainant has no objection in case the present FIR is quashed qua the petitioner -Atul Jindal. It is also reported that two persons were accused in this case namely the present petitioner- Atul Jindal & one Gurinder Singh and no person has been declared proclaimed offender.

Learned counsel for the petitioner submits that matter pertains to a dispute arising out of an agreement to sell qua which the complainant Kharaiti Lal has filed a civil suit against Gurinder Singh/co-accused, who was arrayed as defendant No. 1 and the petitioner who was arrayed as defendant No.2.

It is further submitted that during the pendency of the civil suit, a compromise was effected which is attached as Annexure P-2 dated 1.11.2016. As per the said compromise petitioner/defendant No.2 has paid an amount of ₹ 10.00 lacs to the complainant and the complainant have made a statement before the Civil Court that he withdraw his suit against the present petitioner/defendant No. 2. Accordingly, trial Court dismissed the suit qua petitioner-Atul Jindal.

Learned counsel for the petitioner relies upon a judgment in 2012 (12) SCC 401, Jayrajsinh Digvijaysinh Rana vs. State of Gujrat and another to submit that in the offences under Sections 420, 467, 468, 471, 120-B IPC, the Hon'ble Supreme Court has quashed the FIR where the compromise was effected by one of the accused with the complainant.

It is further submitted that similar is the view taken by this Court in 2010 (1) RCR (Criminal) 256, Parambir Singh Gill vs. Malkiat Kaur; 2010 (3) RCR (Criminal) 660, Gurtej Singh vs. State of Haryana and another and 2007(3) RCR (Criminal) 479, Sarabjeet Singh vs. State of Punjab that out of more than one accused, if a compromise is effected by the complainant with one accused, proceedings qua one accused can be quashed by this Court in exercising the powers under Section 482 IPC.

Since the parties have resolved their dispute which was primarily related to an agreement to sell and the petitioner has already paid an amount of ₹ 10.00 lacs, no purpose would be served in prolonging the litigation.

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, this petition is allowed. FIR No. 112 dated 13.7.2012 registered under Sections 420, 465, 468, 471, 120-B, IPC, registered at Police Station Mataur, SAS Nagar, Mohali and all the subsequent proceedings, arising therefrom are ordered to be quashed qua the petitioner.

11.10.2017
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No