

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

**CRM-M-23975-2017 (O&M)
Date of decision: - 30.10.2017**

Darbara Singh

.....Petitioner

versus

Satpal Kaur and another

.....Respondents

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

Present: - Ms. Sukhpreet Kaur, Advocate for the petitioner.

Mr. Sandeep Virmani, Addl. AG, Punjab.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for quashing of the complaint No. 268 dated 2.9.2014 under Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'SCs and STs Act') and under Section 294, 506 IPC, registered at Police Station Ghanaur (Annexure P-1) as well as summoning order dated 8.1.2014 (Annexure P-2) and order 4.6.2015 (Annexure P-3), declaring the petitioner proclaimed offender in view of compromise dated 1.6.2017 (Annexure P-4).

Learned counsel for the petitioner submits that in pursuance to the order dated 10.7.2017, parties have appeared before the trial Court and recorded their statements.

As per the statement of respondent No. 1-complainant, Satpal Kaur, she has no objection if the complaint and the summoning order dated 4.6.2015 are quashed on the basis of compromise.

As per the aforesaid order dated 10.7.2017, it was also directed that petitioner who was declared proclaimed offender, vide order dated 4.6.2015 (Annexure P-3) will surrender before the trial Court and will be released on bail on his furnishing personal bonds with two sureties of the like amount to the satisfaction of the trial Court.

Trial Court has submitted a report dated 5.8.2017 and 8.8.2017 that parties have appeared and as per the statement of the parties they have entered into a valid and genuine compromise which is voluntarily without any coercion or undue influence. As per the report of the SHO, other co-accused namely Sarjant Singh has already expired and complainant has withdrawn her complaint qua Sarjant Singh (deceased).

Learned counsel for the petitioner submits that in pursuance to the order dated 10.7.2017, petitioner while appearing before the trial Court has also furnished his fresh bail/surety bonds and the same were accepted. He further relies upon order dated 10.5.2017 passed in **CRM-M-6724-2017, Mahipal vs. State of Haryana and another,** where this Court, on the basis of compromise has quashed the FIR under Section 3 (10) of the SCs and STs Act.

In view of the fact that parties have compromised the matter; have decided to live in peace and have settled their grievance against each other, this Court is of the opinion that it is appropriate where the powers under Section 482 Cr. P.C. can be exercised for quashing the criminal proceedings/complaint, summoning order and the order declaring the petitioner as proclaimed offender.

In view of the fact that since the offences in the present FIR fall in the category where the matter stands compounded and in view of 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 and complaint No. 268 dated 2.9.2014 under Section 3 of the SCs & STs Act and under Section 294, 506 IPC, registered at Police Station Ghanaur (Annexure P-1) is quashed, as well as, the summoning order dated 8.1.2014 (Annexure P-2) and the order 4.6.2015 (Annexure P-3), declaring the petitioner a proclaimed offender are also quashed qua petitioner-Darbara Singh.

Disposed of.

(ARVIND SINGH SANGWAN)
JUDGE

30.10.2017
preeti

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No