

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-24983 of 2016

Date of Decision: 04.07.2017

Balvir Kaur and Another

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Vaneet Kumar Sharma, Advocate
for the petitioner(s).

Mr. Rahul Rathore, Assistant Advocate General,
Punjab for respondent No.1.

Shekher Dhawan, J.

Present petition is for quashing of FIR No.10 dated 11.1.2014 under Sections 382, 324, 323, 148 & 149 IPC, registered at Police Station Salem Tabri, District Ludhiana City, on the basis of compromise dated 16.5.2014 (Annexure P-2).

2. Learned counsel for the parties have stated that the present FIR may be quashed as the parties have amicably settled the dispute.

3. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise dated 16.5.2014, by this Court.

4. In compliance thereof, report from the Judicial Magistrate Ist Class, Ludhiana has been received through the District & Sessions Judge,

Ludhiana with statement of parties wherein it has been mentioned that the

compromise is genuine and there was no undue influence or coercion from any side.

5. The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

6. An identical question came to be decided by the Hon'ble the Supreme Court in case ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543***. Having interpreted the relevant provisions and considered a line of the judgment on the pointed points, it was ruled (para 57) 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 pre-dominatingly 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 personnel 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.”

The same view was again (recently) reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.***

7. Having regard to the contentions of learned counsel for the parties and the fact that the matter has already been settled between the parties with the intervention and the compromise shall give an opportunity to them to live peacefully in future as well. Hence, it would be in the interest and justice that parties are allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

the impugned FIR No.10 dated 11.1.2014 under Sections 382, 324, 323, 148 & 149 IPC, registered at Police Station Salem Tabri, District Ludhiana City and all other consequent proceedings arising thereto are hereby quashed, on the basis of compromise dated 16.5.2014, qua the petitioners only.

(Shekher Dhawan)
Judge

July 04, 2017
“DK”

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