

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

**CRM No.M-34975 of 2017
Decided on: 20.11.2017**

Sewa Singh and another

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. J.S. Saneta, Advocate
for the petitioners.

Mr. Naveen Sheoran, DAG, Haryana.

Mr. Balwinder Singh Brar, Advocate
for respondents No.2 to 4.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner has prayed for quashing the FIR No.6 dated 04.01.2007 registered under Sections 323, 324, 452, 506 read with Section 34 IPC (Sections 326 and 427 IPC added later) at Police Station Pehowa, District Kurukshetra on the basis of the compromise effected between the parties, the order dated 14.07.2007 (Annexure P2) vide which petitioner No.1 was declared as proclaimed offender and the order dated 24.04.2012 (Annexure P3) whereby petitioner No.2 was declared as proclaimed offender by the trial Court.

In pursuance to the order dated 20.09.2017, the parties have appeared before the trial Court, got their statements recorded and deposited the costs of Rs.2,00,000/- with the District Legal Services

Authority, Kurukshetra as per order dated 30.10.2017 placed on record as Mark A.

As per the report dated 03.11.2017 submitted by the trial Court, the parties have entered into compromise (Ex.C1) as the complainant – Ram Chander, injured Sanjay and Karnail Singh have got their statements recorded on 30.10.2017 that the compromise (Ex.C1) is voluntary and has been entered into without any pressure and as per this compromise, the parties have settled their grievances and have decided to live in peace. The statement of the petitioner has also been recorded.

As per the report of the trial Court dated 03.11.2017, both the parties have amicably settled the matter and it is reported that the compromise (Ex.C1) is voluntarily and genuinely entered document, without any undue influence or coercion.

Counsel for the petitioners has submitted that one of the co-accused Virsa Singh has already expired and proceedings qua him stood abetted. It is further submitted that other co-accused namely Vachhittar Singh has filed CRM-M No.18632 of 2016 seeking quashing of the FIR and all other consequential proceedings on the basis of the compromise with the complainant and in that case also, the trial Court was directed to record the statements of the parties and submit a report and after receiving the report, the said petition was allowed vide order dated 03.08.2017.

It is further submitted that both the petitioner No.1 was residing in USA since 2007 whereas petitioner No.2 has gone to USA on 10.05.2011, when they were declared as proclaimed offender and the procedure adopted by the trial Court under Section 82 Cr.P.C. was not

in accordance with law as the notice or the proclamation was not made at the ordinary place of residence. Counsel for the petitioners has submitted that while filing this petition have submitted their power of attorney as well as the supporting affidavit during their stay in USA. It is further submitted that the petitioners in pursuance of the interim order dated 20.09.2017 have come back to India and have surrendered before the trial Court and the trial Court has released them on interim bail on furnishing their bail/surety bonds subject to payment of costs of Rs.2,00,000/- which they have already deposited.

I have heard counsel for the parties and perused the case file.

As per the Full Bench judgment of this Court in ***“Kulwinder Singh and others vs State of Punjab”***, 2007 (3) RCR (Criminal) 1052, 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 feel that the same was required to prevent the abuse of the process of law or otherwise to 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 (Criminal) 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.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

For the reasons stated hereinabove, the petition is allowed, the FIR No.6 dated 04.01.2007 registered under Sections 323, 324, 452, 506 read with Section 34 IPC (Sections 326 and 427 IPC added later) at Police Station Pehowa, District Kurukshetra and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners.

Further in view of the fact that the petitioners were residing abroad when they were declared as proclaimed offender, the parties belongs to the same locality and have decided to live in peace and have settled their dispute and further agreed not to file any case against each other and also in view of the fact that the proceedings *qua* co-accused Vachhitar Singh has already been quashed by this Court vide order dated 03.08.2017, the orders dated 14.07.2007 and

24.04.2012 declaring them proclaimed offender are also set-aside as they have deposited the costs of Rs.2,00,000/- on account of delaying the proceedings.

22.11.2017
yakub

(ARVIND SINGH SANGWAN)
JUDGE

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