

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-40516-2013 (O&M)

Date of decision: 30.11.2017

Lambar @ Lehmbar Singh Johal

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Mohd. Yousaf, Advocate
for the petitioner.

Mr. Rana Harjasdeep Singh, AAG, Punjab.

Mr. Saurabh Arora, Advocate
for respondent No.2-Official Liquidator.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.14 dated 06.02.2013 (Annexure P-1) under Section 406 of the Indian Penal Code ('IPC' for short), registered at Police Station Ahmedgarh, District Sangrur and all the subsequent proceedings arising therefrom.

This petition is pending since 2013 and vide order dated 17.03.2015, it was observed that there is a possibility of some amicable settlement and thereafter on 13.11.2017, counsel for the parties stated that the matter has been compromised between the parties and accordingly, the matter was referred to the Mediation and Conciliation Centre of this Court for recording their statements regarding the compromise.

A report of the Mediator dated 20.11.2017 has been received and on basis of statement of counsel for the petitioner as well as official liquidator, it is reported that the matter has been settled between the parties. A receipt regarding payment of Rs.40,000/- has also been attached with the report.

Since the matter has been amicably settled between and the parties and they have decided to finish off all the litigations and resolved their dispute against each other, no useful purpose would be served in allowing the criminal proceedings against the petitioner in pursuance to the impugned FIR.

As per the Full Bench judgement of this Court in **Kulwinder Singh and others vs State of Punjab, 2007 (3) RCR (Criminal) 1052**, it is held that the 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:-

“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-dominantly 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.”

In view of what has been discussed hereinabove, this petition is allowed and FIR No.14 dated 06.02.2013 (Annexure P-1) under Section 406 IPC, registered at Police Station Ahmedgarh, District Sangrur and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

[ARVIND SINGH SANGWAN]
JUDGE

30.11.2017
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No