

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

CRM-M-39822-2017 (O&M)

Date of decision: 06.12.2017

Gurcharan Singh and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Aminder Singh, Advocate
for the petitioners.

Mr. A.S. Gill, Sr. DAG, Punjab.

Mr. Manik Garg, Advocate for
Mr. Damanjit Singh Sandhu, Advocate
for respondents No.2 & 3.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.123 dated 13.07.2017 (Annexure P-1) under Sections 447, 511, 323, 506, 427, 148, 149 of the Indian Penal Code ('IPC' for short), registered at Police Station Bhawanigarh, District Sangrur and all the subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Vide order dated 26.10.2017, the parties were directed to appear before the trial Court for the purpose of recording their statements in support of the compromise. The trial Court was further directed to submit a report regarding the validity of the compromise and report whether the same is

genuine and if any accused person is proclaimed offender.

The trial Court has submitted a report dated 14.11.2017 and as per this report, none of the accused person is proclaimed offender. The statement of ASI Ashok Kumar, Investigating Officer was also recorded by the trial Court who has verified this fact that no person is declared as proclaimed offender. As per the statement of complainants-respondents No.2 and 3 Inderjit Singh and Surinder Kaur, who are brother and sister, they have entered into a compromise on 10.10.2017 with the accused persons and the compromise is without any influence, coercion or pressure. As per their statements, except these two persons namely Inderjit Singh and Surinder Kaur, no other person was injured in the case. Similarly, statements of all seven petitioners have been recorded by the trial Court and they have also acknowledged the compromise.

The accused persons-petitioners as well as the complainants have been duly identified by their respective counsel, who are representing them before the trial Court. Thus, the trial Court has submitted a report that the compromise dated 10.10.2017 entered into between the parties is a valid one and without any influence, coercion or pressure.

Counsel for the petitioners as well as respondents No.2 and 3 have submitted that in fact petitioners No.1 and 2 are the sons of Inderjit Singh, whereas petitioners No.3 and 4 are respective wives of petitioners No.1 and 2 and petitioners No.5 to 7 are also close relatives of the parties.

Since the dispute is between family of the petitioners and private respondents and they have decided to bury their dispute and live in peace, no useful purpose would be served in allowing the criminal proceedings against the petitioners 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.123 dated 13.07.2017 (Annexure P-1) under Sections 447, 511, 323, 506, 427, 148, 149 IPC, registered at Police Station Bhawanigarh, District Sangrur and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners.

[ARVIND SINGH SANGWAN]
JUDGE

06.12.2017
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No