

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-45576-2016 (O&M)

Date of decision: 28.11.2017

Gurnam Singh and another

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Sandeep K. Sharma, Advocate
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

Mr. M.S. Nain, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.515 dated 04.07.2016 (Annexure P-1) under Sections 306, 34 of the Indian Penal Code ('IPC' for short), registered at Police Station Civil Lines Karnal and all the subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-4).

Vide order dated 20.12.2016, this petition was ordered to be listed with CRM-M-35213-2016, which was filed by the petitioners praying for anticipatory bail. A perusal of the record of CRM-M-35213-2016 shows that on 06.10.2016, the petitioners Gurnam Singh and Rajesh Kamboj, who had filed the aforesaid petition and the complainant were directed to appear before the

Mediation Centre situated at District Courts, Karnal for the purpose of exploring the possibility of some amicable settlement.

Later on, the report dated 12.12.2016 was submitted by the Mediation Centre, Karnal through District and Sessions Judge, Karnal in the said petition along with joint statement of respondent No.2-complainant Sameena as well as both the petitioners namely Gurnam Singh and Rajesh Kamboj. The said joint statement of both the parties recorded by the Mediator is reproduced as under: -

“Joint statement of

1. Gurnam son of Sh. Kali Ram, resident of Village Umri, PS Pipli, Tehsil Thanesar, District Kurukshetra.

2. Rajesh Kumar son of Sh. Parthvi Chand, resident of Village Bakana, Tehsil Radaur, District Yamunanagar.

... First party/Petitioner/Accused

AND

Sameena wife of Nathi resident of Village Bajida Jattan, Tehsil and District Karnal. Now tenant at house No.1458-A, Housing Board Colony, Karnal and Kajal daughter of Nathi Ram resident of Village Bajida Jattan, Tehsil and District Karnal. Now tenant at house No.1458-A, Housing Board Colony, Karnal)

... Second party/respondents

Today in the Mediation and Conciliation Centre we have settled the matter amongst ourselves. It has been settled that second party shall not pursue the bail application and criminal case against first party out of FIR No.515 dated 4.7.2016 u/s 306/34 IPC,

Police Station Civil Line, District Karnal and shall try to get the matter settled before the Courts of law. The first party shall pay an amount of Rs.4,25,000/- (Four lac Twenty five thousand only) on human grounds since deceased was under his employment. The second party shall not claim anything except the abovesaid amount from the first party and this amount shall be full and final against their all the claims. Out of this amount a sum of Rs.50,000/- in cash has been received by the second party and remaining amount of Rs.3,75,000/- shall be paid through cheque bearing No.000014 dated 28.12.2016 of amount Rs.1,75,000/- and cheque bearing No.000016 dated 30.1.2017 of amount Rs.2,00,000/-. Both the post dated cheques had been received by the second party. The settlement has been arrived between the parties out of their free will, consent and without any pressure. Both the parties shall be bound to the terms of present settlement.

*Ist Party
Sd/-30-11-2016
Rajesh Kumar
Identified by Amit Gupta
Advocate
P/1000/02
(on behalf of Ist party)*

*2nd Party
Sd/-30-11-2016
Kajal Sameena
Identified by Ramlal, Adv.
P/1324/2003
(on behalf of IInd party)*

*Sd/-
(Raman Sharma)
Mediator Advocate
Mediation & Conciliation Centre,
Karnal. 30.11.2016”*

Vide order dated 20.12.2016, the parties were directed to appear before the trial Court/CJM, Karnal for recording their statements with regard to compromise. Respondent No.2 had made a statement on 02.03.2017 before the

Chief Judicial Magistrate, Karnal that she has compromised the matter with the petitioners in the aforesaid FIR. The complainant further stated that she did not want to take any action against the accused persons and has no objection if the FIR is quashed.

Since this petition was ordered to be listed with abovesaid petition, however, in the meantime, noticing the fact that the parties have compromised the matter, CRM-M-35213-2016, in which the proceedings of Mediator were produced on record as well as the report of the District and Sessions Judge, Karnal was also produced on record, was disposed of vide order dated 16.05.2017.

On the last date of hearing, it was ordered that the case file of CRM-M-35213-2016 be tagged with the present case.

Learned counsel for the petitioners submits that in pursuance to the compromise arrived at between the parties, the petitioners have already compensated respondent No.2-complainant Sameena by way of two cheques amounting to Rs.2 lacs and Rs.1,75,000/- total being Rs.3,75,000/-. Apart from this, Rs.50,000/- in cash was also paid.

Learned counsel appearing for respondent No.2-complainant has not disputed this fact that the complainant has received the aforesaid amount by way of cheques, which have been encashed as well as Rs.50,000/- in each.

Similarly, learned State counsel, on instructions from HC Vinod Kumar, has also acknowledged that the parties have entered into a valid and legal compromise.

Considering the fact that FIR No.515 dated 04.07.2016 under Sections 306, 34 IPC was registered against the petitioners on account of

committing suicide by husband of respondent No.2 Sameena and in view of the fact that vide order dated 06.10.2016 passed in CRM-M-35213-2016, it was observed that the parties are ready for an amicable settlement, as the petitioners have offered to pay some amount of compensation to family of the deceased. It is only in pursuance of the said order dated 06.10.2016 and with the efforts made by the Mediation Centre, Karnal, an amicable settlement could arrive at between the parties and as per the same, total amount of Rs.4,25,000/- has already been paid to respondent No.2 being legal heir of deceased Nathi.

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.”

I am of the opinion that since the matter has been amicably settled between the parties, have decided to live in peace and they have resolved their dispute, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.515 dated 04.07.2016 (Annexure P-1) under Sections 306, 34 of IPC, registered at Police Station Civil Lines Karnal and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners.

[ARVIND SINGH SANGWAN]
JUDGE

28.11.2017
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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No