

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

CRR No. 1444 of 2013 (O & M)
Date of Decision: 30.11.2017

Ajay Kumar

.....Petitioner

v.

Anita and another

.....Respondents

CORAM HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present:- Mr. J.S. Thind, Advocate, for the petitioner

Mr. Rahul Deswal, Advocate, for respondent No.1

Ms. Neelam Kashyap, DAG, Haryana

SHEKHER DHAWAN, J.

Present revision petition has been filed to challenge the order dated 11.4.2013, passed by the learned Additional Sessions Judge, Bhiwani affirming the judgment of conviction dated 5.5.2010 and order of sentence dated 6.5.2010, passed by the learned Judicial Magistrate Ist Class, Bhiwani, vide which the present petitioner was sentenced for 2 years RI.

In continuation of the earlier order dated 10.10.2017, payment of Rs.2,85,800/- has made by petitioner Ajay Kumar to respondent Anita, who has received the same, in presence of her counsel, today in the Court.

The parties have settled their all pending disputes and written compromise (Annexure P-1) has already been effected, which is duly signed by the parties and their counsel as well.

The Hon'ble Full Bench of this Court in case “**Kulwinder**

Singh v. State of Punjab and another, 2007(3) RCR (Criminal) 1052

and Hon'ble Division Bench of this Court in case "**Sube Singh and another v. 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.

An identical question came to be decided by the Hon'ble 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-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 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”.

In view of the above, impugned judgment of conviction dated 5.5.2010 and order of sentence dated 6.5.2010, passed by learned Judicial Magistrate Ist Class, Bhiwani and judgment dated 11.4.2013 passed by the learned Additional Sessions Judge, Bhiwani are set aside and all proceedings, which are the subject matter of the compromise, pending between the parties, shall also stand quashed.

The present petition stands disposed of.

(SHEKHER DHAWAN)
JUDGE

30.11.2017

Ashwani

Speaking/Reasoned
Reportable

Yes/No
Yes/No