

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

CRM-M-829 of 2017

Date of decision: 03.08.2017

Vikram Singh

.... Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present : Mr.A.K.Walia, Advocate
for the petitioner.

Ms. Dimple Jain, AAG, Haryana.

Mr. Ashwani Bhardwaj, Advocate
for respondent No.3.

Avneesh Jhingan, J.

Petitioner has filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.399 dated 27.11.2016, under Sections 363/366 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Pundri, District Kaithal.

Reply has been filed by respondents No.1 and 2. It has been stated that the girl was major. A cancellation report has been prepared by the police and the same shall be presented in the Court in due course. Para No.4 of the reply reads as under:-

“That, during the course of investigation of the case it has been found that the date of birth of Jyoti is

18.11.1993 whereas date of birth of the petitioner Vikram Singh was found 05.12.1989. On this, on 04.03.2017, the Station House Officer, Police Station, Pundri prepared cancellation report in this case which is under process and the same shall be presented in the learned Court in due course. Since during the course of investigation of case FIR No.399 dated 27.11.2016, under Sections 363/366 of IPC, Police Station Pundri, cancellation report has been prepared then the present petition is liable to be dismissed, being devoid merits.

Learned counsel for respondent No.3 has opposed the cancellation report. But since the police has prepared the cancellation report, respondent No.3 would be at liberty to avail its remedies, if aggrieved of the cancellation report.

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

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.”

Since the petitioner and respondent No.4 have got married and

are living together as husband and wife, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No.399 dated 27.11.2016, under Sections 363/366 of IPC, registered at Police Station Pundri, District Kaithal, along with all subsequent proceedings arising therefrom, are ordered to be quashed.

(AVNEESH JHINGAN)
JUDGE

03.08.2017
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Note:

1. Whether the order is speaking/reasoned : Yes
2. Whether the order is reportable : Yes