

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

**CRM-M-8304-2017 (O&M)
Date of decision: - 10.10.2017**

Salwinder Singh and another

.....Petitioners

versus

State of Punjab and another

.....Respondents

CORAM: - HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: - Mr. Deepak Malhotra, Advocate the petitioners.

Mr. Arpinder Singh Sidhu, DAG, Punjab.

Ms. Ekta Saini, Advocate for

Ms. Ekta Thakur, Advocate for respondent No. 2.

ARVIND SINGH SANGWAN, J (ORAL)

Prayer in the present petition is for quashing of the FIR No. 3 dated 8.1.2017 (Annexure P-1) under Sections 307, 436, 427, 323, 148, 149 IPC, registered at Police Station Mahilpur, District Hoshiarpur and subsequent proceedings arising therefrom on the basis of compromise dated 8.2.2017 (Annexure P-2).

Vide order dated 1.9.2017, parties were directed to appear before the trial Court for recording of their statements. Accordingly, both the parties have appeared before the trial Court on 13.9.2017 and recorded their statements. Respondent-complainant Deepak Agnihotri has voluntarily stated that he has entered into a compromise with the accused persons who are the petitioners and similar is the statement made by petitioners-accused. Trial Court has submitted a report dated 25.9.2017, in which it is stated that parties have made their statements of their own sweet will without any coercion or duress and the complainant has no objection if the present FIR is quashed.

Trial court has also sought the report of the SHO concerned and he has submitted that none of the accused is proclaimed offender and no such proceedings are pending against any of the accused.

Learned State counsel, on instructions from ASI Richpal Singh submits that there is no opinion obtained during the investigation from any doctor declaring the injury on the person of complainant -Deepak Agnihotri as dangerous to life. Learned State counsel has further submitted that the investigating officer has invoked Section 307 IPC on the statement of complainant itself. The investigating Officer has also shown the MLR of complainant where injury No. 2 is reported as raddish abrasion over right occipital bone of scalp and there is no history of vomitting, bleeding etc. It is, thus, submitted that even from the perusal of the MLR, injury No. 2 suffered by complainant was not dangerous to life and therefore, no offence under Section 307 is made out.

As per the Full Bench judgment 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.

Similarly, 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 predominatingly 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.”

Accordingly, this petition is allowed. FIR No. 3 dated 8.1.2017 (Annexure P-1) under Sections 307, 436, 427, 323, 148, 149 IPC, registered at Police Station Mahilpur, District Hoshiarpur and subsequent proceedings arising therefrom on the basis of compromise dated 8.2.2017 (Annexure P-2) are ordered to be quashed qua the petitioners.

10.10.2017
preeti

(ARVIND SINGH SANGWAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether Reportable</i>	<i>Yes/No</i>