

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

Decided on: 22.05.2018

1. CRM-M No.10227 of 2018

Ravi Kant

....Petitioner

Versus

State of Punjab

....Respondent

2. CRM-M No.21521 of 2018

Amar Kant and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Parminder Singh, Advocate
for the petitioner (s) (in both the petitions)

Mr. Abhay Pal Singh Gill, AAG, Punjab.

Mr. H.P.S. Ishar, Advocate
for the complainant (in both the petitions)

ARVIND SINGH SANGWAN, J. (Oral)

By way of this order, I shall dispose of the two aforesaid petitions. The petition i.e. CRM-M Nos.10227 of 20187 has been filed for quashing of FIR No.50 dated 07.04.1989, registered under Sections 323, 324 read with Section 34 of the Indian Penal Code, 1860 (in short 'IPC') at Police Station Kharar, District S.A.S. Nagar, Mohali as well as

the order dated 19.09.1992 vide which the petitioner has been declared as proclaimed person, whereas the petition i.e. CRM-M No.21521 of 2018 has been filed for quashing of FIR No.5 dated 11.01.1991 registered under Sections 307, 324, 323, 342, 365 read with Section 34 IPC at Police Station Kharar, District S.A.S. Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of the compromise arrived at between the parties.

In CRM-M No.10227 of 2018, the following order was passed by this Court on 12.03.2018:-

“Prayer in this petition is for quashing of FIR No.50 dated 07.04.1989 registered under Sections 323, 324 read with Section 34 IPC at Police Station Kharar, District S.A.S. Nagar, Mohali and all consequential proceedings arising therefrom as well as the order dated 19.09.1992 declaring the petitioner as proclaimed offender.

Counsel for the petitioner has submitted that vide order dated 25.01.2018, the petitioner was granted regular bail subject to payment of costs of Rs.10,000/- and he has already deposited the costs with the District Legal Services Authority, S.A.S. Nagar, Mohali. It is further submitted that the trial Court vide its judgment dated 11.10.1993 has acquitted the co-accused namely Chander Kant and Amneet Kant and in the arrays of the accused, even the name of the petitioner – Ravi Kant is mentioned. It is further submitted that from the complainant's side Premlata has filed a cross-version in the present FIR and as per the version given in the FIR, Amneet Kant, brother of the petitioner suffered 75% permanent disability at the hands of sons of the complainant. Later on, the matter was compromised between the parties and the petitioner was permitted to travel abroad in February, 1992 and,

thereafter, has not returned back to India under a bona fide impression that he has been acquitted, since there is a judgment of acquittal dated 11.10.1993 in which the petitioner is even shown to have been acquitted by the trial Court. It is further submitted that on enquiry from counsel representing him before the trial Court also, it was revealed that the petitioner stands acquitted, however, the order dated 19.10.1992 declaring the petitioner as proclaimed offender was never set-aside. It is further submitted that even the complainant has furnished an affidavit that he do not want to prosecute the matter any further against the petitioner and as per clause (2) of the said statement between the parties, it is agreed that the parties will withdraw the criminal proceedings pending against each other and from the side of the petitioner, it was undertaken that they will not claim any amount in pursuance to the Civil Court decree passed in their favour for having caused injuries to the brother of the petitioner. Counsel for the petitioner has further argued that the petitioner is presently suffering from mental disease and is under continuous treatment.

Notice of motion for 24.04.2018.

In the meantime, the trial Court is directed to adjourn the case beyond the date fixed before this Court.”

On 26.04.2018, the matter was referred to the Mediation and Conciliation Centre of this Court and the parties were directed to appear before Mediation Centre to explore the possibility of some amicable settlement.

As per the report dated 10.05.2018, submitted by the Mediator, the matter has been compromised between the parties and it is agreed that a total sum of Rs.9.25 lacs would be paid by the first

party i.e. the petitioners – Ravi Kant and Amar Kant, to the complainant in 02 installments.

In pursuance to the award, the petitioners have handed over 02 demand drafts of Rs.4.75 lacs and Rs.4.50 lacs favouring the complainant – Rajinder Kumar.

The parties are ad idem that the matter has been settled between the parties as per the award dated 10.05.2018 and they will be bound by the same, as the matter has been amicably settled between the parties.

Counsel for the petitioner(s) has further submitted that no other criminal case is pending between the parties.

Counsel for the State, on instructions from ASI Jaswant Singh, has raised no objection in case the FIR Nos.50 and 5 got registered by the complainant – Rajinder Kumar are quashed as the offence punishable under Sections 323, 324 read with Section 34 (in FIR No.50 dated 07.04.1989) and the offence punishable under Sections 307, 324, 323, 342, 365 read with Section 34 IPC (in FIR No.5 dated 11.01.1991) falls in the category of cases which can be compounded in the light of judgment “**Kulwinder Singh and others vs. State of Punjab**”, 2007 (3) RCR (Criminal) 1052 and “**Gian Singh vs State of Punjab and another**”, 2012(4) R.C.R. (Criminal) 543.

I have heard counsel for the parties, perused the paperbook and the report submitted by the trial Court.

As per the Full Bench judgment of this Court in “**Kulwinder Singh's case (supra)**”, it is held that 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.

Perusal of the allegations in the FIR reveals that the present case squarely falls in the category of cases that can be quashed by the High Court, in exercise of its inherent power under Section 482 of the Code. Keeping in view authoritative enunciation of law laid down by Hon'ble the Supreme Court of India in "*Gian Singh's case (supra)*" and in the light of facts and circumstances of the present case, this Court is of the considered opinion that continuation of criminal proceedings would amount to abuse of process of law and it is expedient in the interest of justice if the criminal proceedings are put to an end.

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of the above, the petitions are allowed, the order dated 19.09.1992 declaring the petitioner – Ravi Kant as proclaimed offender passed by the trial Court is set-aside and FIR No.50 dated 07.04.1989, registered under Sections 323, 324 read with Section 34 IPC at Police Station Kharar, District S.A.S. Nagar, Mohali and FIR No.5 dated 11.01.1991 registered under Sections 307, 324, 323, 342, 365 read with Section 34 IPC at Police Station Kharar, District S.A.S. Nagar, Mohali, on the basis of compromise along with all

consequential proceedings, arising therefrom, are ordered to be quashed.

Since the FIR Nos.50 and 5 have been quashed on the basis of the compromise, the trial Court is directed to release the passport of both the petitioners, in accordance with law.

(ARVIND SINGH SANGWAN)
JUDGE

22.05.2018
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No