

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-10693-2018 (O&M)

Date of decision: 05.07.2018

Virpal Kaur

...Petitioner

Versus

Tarlochan Singh and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. A.S. Bhatti, Advocate
for the petitioner.

Respondent No.1 in person.

Mr. Sidakmeet Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN, J.

The petitioner has prayed for quashing of complaint No.14/1 dated 18.03.2008 (COMI 34790/2013) titled as Tarlochan Singh Vs. Virpal Kaur etc. under Sections 495, 120-B of the Indian Penal Code (for short 'IPC') filed in the Court of JMIC, Ludhiana and the judgment of conviction dated 02.03.2017 as well as all the subsequent proceedings arising therefrom, on the basis of compromise effected between the parties.

It is worth noticing here that there were five criminal cases pending between the parties and they have decided to amicably settle all the five cases arising out of FIR/criminal complaint.

Vide order dated 17.05.2018, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements

recorded with regard to genuineness of the compromise.

A report dated 23.05.2018 has been submitted by the Additional Sessions Judge, Ludhiana, wherein it has been reported that statements of the petitioner and respondent No.2 have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will.

The trial Court vide impugned judgment of conviction and order of sentence dated 02.03.2017 had convicted the petitioner Veerpal Kaur under Section 495 IPC and had further sentenced her to undergo R.I. for two years with a fine of Rs.5,000/- and in default of payment of fine, she was directed to undergo R.I. for one month. The appeal filed by the petitioner is now pending before the Additional Sessions Judge, Ludhiana.

Learned counsel for the petitioner submits that there were five litigations between the parties and the compromise has been effected in all the five petitions and the same are being disposed of together by passing separate orders. Learned counsel for the petitioner has relied upon a Division Bench judgment of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (Crl.) 102**, where it has been held that even in case of conviction, where the parties have compromised the matter, this Court in exercise of powers under Section 482 Cr.P.C. can compound the offence and reduce the sentence to the period already undergone by the petitioner/accused person.

Learned State counsel has not disputed the fact that the parties

have arrived at a settlement with an intent to give burial to their differences.

I have heard learned counsel for the parties and perused the case file.

As per the Full Bench judgment 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 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.”

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 what has been discussed hereinabove, present petition is allowed and the judgment of conviction and order of sentence dated 02.03.2017 (Annexure P-2), vide which the petitioner Veerpal Kaur was convicted under Section 495 IPC and was sentenced to undergo R.I. for two years by the trial Court in complaint No.14/1 dated 18.03.2008 (COMI 34790/2013) titled as Tarlochan Singh Vs. Virpal Kaur etc. under Sections 495, 120-B IPC filed in the Court of JMIC, Ludhiana, against which appeal is now pending before the Additional Sessions Judge, Ludhiana, is modified to the extent that sentence awarded to the petitioner is reduced to the sentence already undergone by her, however, the imposition of fine of Rs.5,000/- is upheld.

The petitioner is directed to deposit the amount of fine within a period of 08 weeks from today in case the same is not deposited. The petitioner is further directed to deposit costs of Rs.2,000/- with the District Legal Services Authority, Ludhiana.

[ARVIND SINGH SANGWAN]
JUDGE

05.07.2018
vishnu

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