

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

CRM-M-11044-2018(O&M)

Date of decision:21.05.2018

Taranvir Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Abhinav Gupta, Advocate
 with petitioners.

Mr. M.S.Nagra, Assistant Advocate General, Punjab.

Mr. Yash Yadav, Advocate
for respondent No.2-Complainant.

ARVIND SINGH SANGWAN, J. (ORAL)

Prayer in this petition is for quashing of FIR No.325 dated 13.08.2003, under Sections 420, 120-B of IPC, registered at Police Station Sadar, District Jalandhar (Annexure P-1) and the orders dated 30.09.2008 and 03.02.2009 (Annexure P-2 and P-3, respectively) passed by the trial Court, whereby the petitioners were declared proclaimed offender in the aforesaid FIR, in view of the compromise between the parties as the complainant has filed an affidavit dated 26.04.2016 (Annexure P-5).

Vide order dated 27.03.2018, petitioner No.1 was directed to appear before the trial Court and the trial Court was directed to release the petitioner on interim bail subject to furnish his bail /surety bonds and on payment of costs of Rs.1,00,000/- to be deposited in the Government Treasury. The parties were further directed to record their respective statements in support of the compromise.

As per report submitted by the Additional Chief Judicial Magistrate, Jalandhar dated 24.04.2018, respondent No.2/complainant Tarsem Singh has recorded his statement that he has compromised the matter with the petitioners / accused- Taranvir Singh, Amarjit Singh & Narinder Kaur and the compromise is effected between the parties without coercion and undue influence. It is also stated that apart from the complainant, there is no other effected person and he has no objection, if the present FIR is quashed.

Similar statement is made on behalf of the petitioners by Taranvir Singh, who has stated that he is the power of attorney of Amarjit Singh s/o Darshan Singh and Narinder Kaur w/o Amarjit Singh and the parties have effected the compromise and he has also deposited the costs of Rs.1,00,000/- before the trial Court.

In pursuance to the statement of parties, the trial Court has recorded a finding that the compromise between the parties is genuine, without any pressure and coercion and the costs of Rs.1,00,000/- has been deposited in the Government Treasury.

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.

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.”

Since the parties have amicably settled their dispute and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No.325 dated 13.08.2003, under Sections 420, 120-B of IPC, registered at Police Station Sadar, District Jalandhar (Annexure P-1) and the orders dated 30.09.2008 and 03.02.2009 (Annexure P-2 and P-3, respectively) passed by the trial Court and all the consequential proceedings arising therefrom, are ordered to be quashed qua the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

21.05.2018
Hemlata

Whether speaking/reasoned
Whether reportable

Yes / No
Yes / No