

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

Sr.No.255

**CRM-M No.13323 of 2015
Date of Decision:12.09.2018**

Rajinder Kumar Saini

....petitioner

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.N.C.Kinra, Advocate
for the petitioner

Mr.Manreet Singh, AAG Punjab

Mr.Sandeep Arora, Advocate
for respondent No.3

ARVIND SINGH SANGWAN, J. :

Prayer in this petition is for quashing of FIR No.237 dated 12.12.2014, for offence punishable under Sections 406,420, 120-B of the Indian Penal Code (in short 'IPC') registered at Police Station Division No.8, District Jalandhar, and all the subsequent proceedings arising out of the same, on the basis of the compromise effected between the parties.

This petition is pending since 2015 and with the intervention of the Court, the parties had shown their willingness to explore the possibility of some amicable settlement and therefore, the case was referred to the Mediation and Conciliation Centre of this Court on 22.05.2018, for exploring the possibility of compromise.

Before the Mediator, settlement/compromise has been arrived at between the parties and respondent No.4 on 10.08.2018, which is duly signed by both the parties.

As per the compromise, it is settled as under:

“7. The following settlement has been arrived at between the parties hereto:

(a) It has been agreed between both the parties that the First Party will pay a sum of Rs.11,50,000/- (Rupees Eleven Lacs and Fifty Thousand only) to the second party which will be in inter se shared by the second party.

(b) That today the First Party has handed demand draft bearing No.203310 dated 08.08.2018 in the name of Manish Saini s/o Jagdish Raj amounting to sum of Rs.2,50,000/- (Rupees Two lacs and Fifty Thousand Only) drawn on UCO Bank, Civil Lines, Jalandhar.

(c) Both the parties have agreed that the balance sum of Rs.9,00,000/- will be paid to the second party by the first party as per the schedule/instalment hereunder:-

(i)Rs.3,00,000/- on or before 20.11.2018

(ii)Rs.3,00,000/- on or before 25.01.2019

(iii)Rs.3,00,000/- on or before 25.03.2019

(d) The second party has agreed and undertakes that after the receipt of a total amount of Rs.11,50,000/- from the first party they will have no claim over the properties mentioned in para No.1.

(e) That the Second Party agreed and undertake to transfer their share in shop No.BXXII-124, situated in Bazar Paprian, Jalandhar, Punjab, in favour of the first party by way of registered sale deed at the time of the final/last instalment of Rs.3,00,000/-. The expenses of the sale deed will be borne by the first party.

(f) Both the parties have agreed that the quashing petition

CRM-M 13323 of 2015 filed by the first party will be quashed after the final receipt of the entire amount i.e. Rs.11,50,000/- by the second party. The second party undertakes that they will appear and make suitable statement or file an affidavit if required before the Hon'ble High Court or before any Hon'ble Court or to file a fresh quashing if required on the basis of compromise.

(g) Both the parties have agreed to withdraw all the cases filed against each other in any Court of Law or before any authority by making joint statement on or before 30.03.2019.

8. With the execution of the present settlement/compromise, entire dispute between the parties shall stand settled. None of the parties shall institute any unwarranted litigation against each other.

9. That if the first party fail to pay the compromise amount of Rs.11,50,000/- then the amount already paid to the second party will be forfeited and the entire litigation will be reopened from the stage it was deemed to be closed in view of the present agreement/compromise. Similarly, if the second party will fail to abide by the conditions of the agreement then they will return the entire amount received by them with interest at the rate of 6% per annum from the date of the payment thereof.”

Learned counsel for the petitioner as well as learned counsel for the complainant have submitted that in pursuance to the aforesaid settlement, even some other litigation has been withdrawn by the parties and some amount has already been paid and the remaining amount will be paid on the dates as fixed in Clause 7(c) of the settlement.

Learned State counsel, on instructions from HC Kulwinder Singh, has submitted that in FIR, only petitioner is the accused person and

respondent No.3 Manish Saini is the complainant- aggrieved person.

I have heard 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 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:-

“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 and have further decided to end this litigation as well as other litigations, and have actually acted upon the same and since the petitioner and respondent No.3 are closely related to each other being uncle and nephew, this Court is satisfied that the settlement arrived at between the parties is for the welfare of the family as well as it will enable the parties to maintain peace and harmony in their families and will allow them to lead a peaceful life.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.237 dated 12.12.2014, for offence punishable under Sections 406,420, 120-B of the Indian Penal Code (in short 'IPC') registered at Police Station Division No.8, District Jalandhar, and proceedings emanating therefrom are ordered to be quashed.

(ARVIND SINGH SANGWAN)
JUDGE

12.09.2018

neenu

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No