

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

**CRM-M-14291-2018
Date of decision: 05.10.2018**

Gurpreet Singh

...Petitioner

Versus

State of Punjab and others

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Sarika Gupta, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Ms. Divya Godara, Advocate
for respondent Nos. 2 and 3.

ARVIND SINGH SANGWAN, J. (Oral)

By way of the present petition, filed under Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No. 101 dated 02.05.2005, registered under Sections 341 and 427 of the Indian Penal Code at Police Station Nawanshahr (Annexure P-1) as well as order dated 24.12.2007 (Annexure P-2), declaring the petitioner as a proclaimed offender, and all the subsequent proceedings arising therefrom, on the basis of the compromise (Annexures P-3 and P-4), entered into between the parties.

Vide order dated 10.05.2018, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR. The trial Court was also directed to record the statement of the Investigating

Officer as to how many victims/complainants are there in the FIR.

Thereafter, on 14.09.2018, the petitioner was directed to deposit a cost of ₹2 Lakh before the Illaqua Magistrate/trial Court on account of delaying the proceedings before the trial, which was caused due to the fact that petitioner was declared a proclaimed offender, vide impugned order dated 24.12.2007 (Annexure P-2).

In pursuance to the above direction, the trial Court has submitted a report on 30.07.2018 and as per the said report, the trial Court has recorded the statement of Ajit Singh (grandfather of the petitioner), wherein he has stated that there is a valid compromise Ex. C-1 between the parties. It is further stated in the report that the said compromise has been effected through respondent No. 3 Varinder Kaur who is the mother of respondent No. 2 and the compromise deed dated 21.10.2016 bears the thumb impression of Ajit Singh and signatures of Numberdar Jog Raj and Sarpanch Paramjit, who are the witnesses to the compromise. The trial Court has also recorded the statement of aforesaid Jog Raj and Paramjit who have stated that they are the witnesses to the compromise Ex. C-1. The trial Court has also recorded the statement of respondent No. 3 Varinder Kaur, mother of respondent No. 2, who has also supported the compromise and has stated that the same has been effected between the parties voluntarily and of their own free will without any coercion or undue influence.

On the basis of the statements of the parties, the trial Court has submitted in the said report that there were two accused persons in the FIR in question i.e. Gurpreet Singh (present petitioner) and Satwinder Singh @ Shinda, who has since died. The trial Court has recorded a finding that the compromise has been effected between the parties voluntarily without any

influence or pressure and the same is genuine and petitioner Gurpreet Singh is not involved in any other case except the present FIR and respondent No. 2 is the only victim/complainant in this FIR who has compromised the matter through his mother-respondent No. 3. It is also stated in the report that petitioner Gurpreet Singh was declared a proclaimed person as per the record submitted by the Police Station Sadar, Nawanshahr.

Learned counsel for respondent Nos. 2 and 3, on the basis of the affidavit of Varinder Kaur-respondent No. 3 dated 18.09.2018, has acknowledged that there is valid compromise between the parties.

Learned State counsel, on instructions from ASI Prem Lal, has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

Learned counsel for the petitioner, in pursuance to the order dated 14.09.2018, has placed on record a copy of the treasury receipt dated 25.09.2018 to submit that petitioner has already deposited the cost of ₹2 Lakh under the directions of the Illaqua Magistrate. The said receipt is taken on record as mark 'A'.

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 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.

This Court has also noticed the fact that the petitioner was declared a proclaimed offender, vide impugned order dated 24.12.2007 (Annexure P-2), and subsequent thereto, he has entered into a valid compromise with the complainant and has also deposited the cost of ₹2 Lakh for delaying the proceedings in the trial Court, therefore, the impugned order, declaring the petitioner a proclaimed offender, is also liable to be set aside.

Therefore, in view of the above discussion, present petition is

allowed and FIR No. 101 dated 02.05.2005, registered under Sections 341 and 427 of the Indian Penal Code at Police Station Nawanshahr (Annexure P-1) as well as order dated 24.12.2007 (Annexure P-2), declaring the petitioner as a proclaimed offender, and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

October 05, 2018
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No