

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

**CRM-M No.1547 of 2015
Decided on: 21.02.2018**

Jagroop Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Jasinder Singh Thind, Advocate for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. D.S. Kahlon, Advocate for respondents No.2.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition is for quashing of the FIR No.94 dated 05.07.2006, registered under Sections 420, 467, 468, 471 and 120-B of the Indian Penal Code (in short 'IPC') at Police Station Majitha, the order dated 27.09.2008 (Annexure P7) passed by the trial Court declaring the petitioner as a proclaimed offender and the orders dated 14.01.2010 and 07.01.2011 passed by the trial Court and the Revisional Court vide which the application filed by the petitioner for discharge was dismissed.

Brief facts of the case are that the FIR No.94 dated 05.07.2006 was got registered by the complainant against the petitioner – Jagroop Singh and other co-accused with the allegation that in March/April, 2005, the complainant has given an amount of Rs.8,00,000/- for sending the son of the complainant abroad.

Counsel for the petitioner has submitted that the petitioner, even prior to registration of the FIR was residing in Spain and,

therefore, the order dated 27.09.2008 (Annexure P7) declaring him as a proclaimed offender has been passed without following the procedure under Section 82 Cr.P.C. as the proclamation was not made at the ordinary place of residence of the petitioner and since he was not residing in India, he had no knowledge about the pendency of the case. It is further submitted that the FIR qua co-accused Sanjiv Kumar @ Rinku has already been quashed by this Court on the basis of the compromise between the co-accused and the complainant vide order dated 18.04.2011 passed in CRM-M No.8951 of 2011 (Annexure P10). Similarly against the other co-accused i.e. Gurdeep Singh and another, the FIR has been quashed qua them vide order dated 02.07.2012 passed in CRM-M No.6970 of 2012 (Annexure P11). Counsel for the petitioner has further submitted that the petitioner has moved an application for discharge before the trial Court which was dismissed and the revision filed by the petitioner against that order was also dismissed vide impugned order dated 07.01.2011 (Annexure P9).

Vide order dated 21.12.2015, the petitioner was directed to appear before the trial Court and the trial Court was directed to grant interim bail to the petitioner and thereafter, the petitioner is appearing before the trial Court and then vide order dated 08.12.2017, the matter was referred to the Mediation and Conciliation Centre of this Court for exploring the possibility of some compromise and the report of the Mediator dated 30.01.2018 has been received and as per this report, the parties have mutually and amicably resolved the dispute and respondent No.2 – Rajinder Singh has stated before the Mediator that he do not want to prosecute further in the aforesaid FIR in any manner and he has

no objection if the same is quashed and the order dated 27.09.2008 declaring the petitioner as proclaimed offender be also set-aside.

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 complainant/respondent No.2 – Rajinder Singh has stated before the Mediator that he do not want to prosecute further in the aforesaid FIR in any manner and he has no objection if the same is quashed, no useful purpose would be served in allowing the criminal proceedings to continue.

Keeping in view the fact that the parties have amicably resolved the dispute and also in view of the fact that the FIR qua the co-accused Sanjiv Kumar @ Rinku has already been quashed by this Court on the basis of the compromise vide order dated 18.04.2011 passed in CRM-M No.8951 of 2011 (Anenxure P10) and similarly against the other co-accused i.e. Gurdeep Singh and another, the FIR has been quashed by this Court vide order dated 02.07.2012 passed in CRM-M No.6970 of 2012 (Annexure P11), the petition is allowed, the order dated 27.09.2008 (Annexure P7) passed by the trial Court declaring the petitioner as a proclaimed offender and the orders dated 14.01.2010 and 07.01.2011 passed by the trial Court and the Revisional Court are set-aside and the FIR No.94 dated 05.07.2006, registered under Sections 420, 467, 468, 471 and 120-B IPC at Police Station Majitha and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioner.

21.02.2018
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No