

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

Sr.No.280

CRM-M-20332-2018

Date of Decision:15.11.2018

Jasbir Singh

.... petitioner

Versus

State of Punjab and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Sahil Soi, Advocate
for the petitioner

Mr.J.P.Ratra, DAG Punjab

Mr.Harkirat Singh Bhogal, Advocate for
Mr.Sukhdeep Singh Bhinder, Advocate
for respondent No.2

ARVIND SINGH SANGWAN, J. (ORAL):

The petitioner has prayed for quashing of FIR No.36 dated 19.03.2015, for offence punishable under Sections 406/ 420/ 465/ 468/ 471/ 120-B of the Indian Penal Code (in short 'IPC') registered at Police Station Kartarpur, District Jalandhar, on the basis of the compromise effected between the parties.

Vide order dated 19.07.2018, the parties were directed to appear before the trial Court to get their statements recorded with regard to genuineness of the compromise.

A report dated 05.11.2018 along with the statements of the parties has been submitted by the Judicial Magistrate Ist Class, Jalandhar.

In the statement of Shankar Singh, Officiating Manager, The Kartarpur Primary Cooperative Agricultural Development Bank Limited, the bank-respondent No.2 has arrived at a settlement with the petitioner in mediation proceedings and the settlement is annexed as Ex.C1. It is further

stated that the total disputed amount was Rs.6,87,597/- and the petitioner/accused has paid the aforesaid outstanding amount to the bank and the statement of account of the petitioner was placed on record as Ex.C2 on the judicial file along with certificate of the bank as Ex.C3 and loan clearance certificate as Ex.C4. It was thus stated that the bank has no objection if the aforesaid FIR is quashed. Similar is the statement made by the petitioner that he has paid the entire loan amount in pursuance to the compromise between the parties.

As per the statement of ASI Inderjit Singh, investigating officer, only petitioner is the accused in the present FIR and he was never declared a proclaimed offender.

Counsel for the State, 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 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 arrived at a compromise, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.36 dated 19.03.2015, for offence punishable under Sections 406/420/465/468/471/120-B IPC registered at Police Station Kartarpur, District Jalandhar, and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioner – Jasbir Singh.

(ARVIND SINGH SANGWAN)
JUDGE

15.11.2018
neenu

Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No