

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

**CRM-M-22540-2018
Date of decision: 27.09.2018**

Happy @ Rajesh Kumar and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Himanshu Monga, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. R. K. Arya, Advocate
for respondent No. 2.

None for respondent Nos. 3 and 4.

ARVIND SINGH SANGWAN, J. (Oral)

By way of the present petition, filed under Section 482 Cr.P.C., the petitioners have prayed for quashing of FIR No. 83 dated 12.05.2018, under Sections 336, 323, 379, 506, 148 and 149 of the IPC and Section 25 of the Arms Act, registered at Police Station Dinanagar, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of the compromise (Annexure P-2) entered into between the parties.

Vide order dated 29.05.2018, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of both the parties and send a report to this Court as to whether the compromise is genuine and without any pressure or undue influence. The trial Court was also directed to intimate if any of the petitioners has been declared

as proclaimed offender.

A report dated 02.07.2018 has been submitted by the Chief Judicial Magistrate, Gurdaspur, wherein it has been reported that statement of the petitioners and respondent No.2 have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will and none of the petitioners has been declared as a proclaimed offender. The trial Court has also recorded the statement of the Investigating Officer ASI Surjit Singh who has stated that there are total nine accused (petitioners herein) in this FIR and there is no other complainant/victim in this FIR except respondent Nos. 2 to 4.

Learned counsel for the petitioners further submitted that no other criminal case is pending between the parties and none of the petitioners is a proclaimed offender.

Learned State counsel, on instructions from ASI Surjit Singh, 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 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.

In view of the above discussion, present petition is allowed and FIR No. 83 dated 12.05.2018, under Sections 336, 323, 379, 506, 148 and 149 of the IPC and Section 25 of the Arms Act, registered at Police Station Dinanagar, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners

herein, however, subject to payment of costs of ₹3,000/- to be deposited with the District Legal Services Authority, Gurdaspur.

September 27, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No