

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

**CRM-M No.26445 of 2016 (O&M)
Decided on: 20.08.2018**

Jaspinder Kaur and another

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. A.P.S. Rehan, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Sandeep Godara, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.142 dated 22.12.2015, for offence punishable under Sections 324, 323 read with Section 34 of the Indian Penal Code (in short 'IPC') (Section 326 IPC added later) registered at Police Station Dhariwal, District Gurdaspur, on the basis of the compromise effected between the parties.

Vide order dated 29.03.2017, 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 05.05.2018 has been submitted by the Chief Judicial Magistrate, Gurdaspur, wherein it has been reported that statements 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.

Counsel for the petitioners has submitted that there were 02 FIRs pending between the parties and apart from the present petition one CRM-M No.25353 of 2016 titled as “Harmanbir Singh @ Harmandeep Singh and another vs State of Punjab and another”, was also filed and it was directed that the parties in both the cases will appear before the trial Court and record their statements.

Counsel for the petitioners has placed on record a photocopy of the order dated 09.01.2018 passed in aforesaid CRM-M No.25353 of 2016, vide which the said petition was dismissed being rendered as infructuous, noticing the fact that the police has submitted a cancellation report before the trial Court and the same was accepted on 01.06.2017.

Counsel for the petitioners has, thus, submitted that in the report now submitted in the present case dated 15.05.2017 by the trial Court, it is noticed that the parties in the aforesaid petition i.e. CRM-M No.25353 of 2016, have not appeared, which is due to the reason that in the said case, the trial Court itself has accepted the cancellation report.

Counsel for the State assisted with counsel for the respondent No.2 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.

A perusal of the statement made by the complainant in the

present case as well as the statement of the petitioners/accused, show that the parties have compromised the matter and the compromise is effected voluntarily without any coercion or pressure and no other case is pending between them. The parties have also produced on record their I.D. proof before the trial Court.

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 and have decided to live in peace, 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.142 dated 22.12.2015, for offence punishable under Sections 324, 323 read with Section 34 IPC (Section 326 IPC added later) registered at Police Station Dhariwal, District Gurdaspur and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Gurdaspur.

(ARVIND SINGH SANGWAN)
JUDGE

20.08.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No