

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Date of Decision: 30.01.2018

CRM-M -26758-2017

Harpal Singh and Others.....Petitioners

Versus

State of Punjab and others.....Respondents

CRM-M-35152-2017

Labh Singh and others.....Petitioners

Versus

State of Punjab and another.....Respondents

Coram: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr.G.S.Sandhu,Advocate for
Mr.Harpreet Singh Jakhal,Advocate for the petitioners and for
respondents No. 2 in cross case CRM-M-35152-2017
Mr.Abhaypal Singh Gill, Assistant Advocate General, Punjab
Mr.B.S.Sidhu,Advocate for respondents No. 2 & 3 and
for the petitioners in cross case CRM-M-26758-2017

ARVIND SINGH SANGWAN, J.

This order will dispose of above mentioned two petitions i.e. CRM-M-26758-2017 and CRM-M-35152-2017. In both the petitions, filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners are seeking quashing of FIR No. 123 and cross case DDR No. 28 dated 5.9.2015, under Sections 452/323/324/506/148/149 (Section 307 added later on) of the Indian Penal Code, 1860 ('IPC' for

short), registered at Police Station Raman District Bhatinda (Annexure P1) and all consequential proceedings arising therefrom, on the basis of compromise .

Vide order dated 1.8.2017 a direction was given to the Illaqa Magistrate/trial Court to record the statements of the parties and submit a report regarding the genuineness of the compromise effected between the parties and further to intimate with regard to pendency of PO proceedings against the parties.

In pursuance thereof, the trial Court has submitted a report dated 16.10.2017 (forwarded by District and Sessions Judge, Bhatinda on 21.10.2017), after recording the statements of the parties, that both the complainants and accused-Labh Singh, Gurbax Singh, Balwinder Singh, Sarabjit Singh, Harpal Singh, Ajaib Singh, Nachattar Singh, Naib Singh, Gurdeep Singh, Bahadur Singh, Gurjant Singh, and Sagar Singh (complainant in cross case) have appeared along with their respective counsel, who had identified them and got their statement recorded acknowledging that the compromise had been effected voluntarily, without any coercion or any undue influence and none of the accused were declared proclaimed offenders.

As per the allegations in the FIR, one gun shot was fired in the air and no one was injured and there is no MLR of the complainant and, therefore, offence under Section 307 IPC is not made out.

Learned counsel for the petitioners has submitted that it is a case of version and cross-version and no other case is pending against them.

Learned counsel, on instructions from Assistant Sub Inspector-Daler Singh,

has submitted that none of the petitioners is declared as proclaimed offender.

As per the Full Bench judgement of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, 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 felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

The Apex Court in **Central Bureau of Investigation vs. Sadhu Ram Singla and others (2017) 5 Supreme Court Cases 350** has held as under:-

“Having carefully considered the singular facts and circumstances of the present case, and also the law relating to the continuance of criminal cases where the complainant and the accused had settled their differences and had arrived at an amicable arrangement, we see no reason to differ with the view taken in Manoj Sharma’s case (supra) and several decisions of this Court delivered thereafter with respect to the doctrine of judicial restraint. In concluding hereinabove, we are not unmindful of the view recorded in the decisions cited at the Bar that depending on the attendant facts, continuance of the criminal proceedings, after a compromise has been arrived at between the complainant and the accused, would amount to abuse of process of Court and an exercise in futility since the trial would be prolonged and ultimately, it may end in a decision which

may be of no consequence to any of the parties.”

The Apex Court in Narinder Singh and others vs. State of Punjab and another 2014(2) RCR(Criminal) 482 has laid down certain guidelines/parameters wherein even for offence under Section 307 IPC, this Court in exercise of its power under Section 482 Cr.P.C. can take cognizance of a compromise wherein such compromise has been effected at the very initial stage.

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.

Accordingly, both these petitions are allowed. FIR No. 123 and cross case DDR No. 28 dated 5.9.2015, under Sections 452/ 323/ 324/ 506/ 148/ 149 (Section 307 added later on) IPC, registered at Police Station Raman District Bhatinda (Annexure P1) and all the consequential proceedings, arising therefrom, are ordered to be quashed by way of compromise subject to the petitioners' paying costs in the sum of ₹ 5,000/- in the Office of District Legal Services Authority, Bhatinda within 8 weeks from today, failing which this order shall stand recalled automatically without reference to the Court.

(ARVIND SINGH SANGWAN)
JUDGE

January 30,2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No