

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

**CRM-M-29682-2017
Date of decision: 09.07.2018**

Beant Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. H. S. Randhawa, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Pawan Sharma, Advocate
for respondent No. 2/complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 0165 dated 27.08.2016, under Sections 406 and 420 of the Indian Penal Code, 1860, registered at Police Station Kotwali, Patiala (Annexure P-1) along with all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2), entered into between the parties.

Vide order dated 16.08.2017, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR.

In compliance of the above said direction, the trial Court has recorded the statement of the parties. Petitioners in their statement have deposed that they have compromised the matter with respondent No. 2/complainant and similar statement has been made by respondent No. 2/complainant Ashok Kumar that it was a private dispute which has been settled amicably between the parties.

The trial Court has also recorded the statement of ASI Ranjit Singh, Police Station Kotwali who has deposed that five persons were arrayed as accused and on 20.04.2017, petitioners No. 1 to 3, i.e. Beant Singh, Baljinder Singh and Sahib Singh, were declared proclaimed offenders.

A perusal of the FIR shows that the same was registered on the pretext that parties are property dealers and there was a dispute with regard to an agreement to sell which, as per the parties, has been compromised.

Though, as per the report of the trial Court, petitioners No. 1 to 3 were declared proclaimed offenders on 20.04.2017, however, on 23.08.2017, the trial Court, while recording the statements of accused persons, has also recorded the statements of aforesaid three persons.

Learned State counsel as well as learned counsel for respondent No. 2/complainant have also acknowledged the factum of compromise and it is also stated by the complainant that he has received the said amount of ₹35,00,000/-as full and final settlement.

It has been held by this Court in ***Balbir Singh vs. State of Punjab and another, 2011 (3) R.C.R. (Criminal) 234*** that though the proceedings qua a person, who has been declared proclaimed offender, are not normally to be quashed, however, considering the fact that the matter

has been compromised, the proceedings declaring a person as a proclaimed offender can be quashed in exercise of power envisaged under Section 482 Cr.P.C.

In the instant case, considering the fact that petitioners No. 1 to 3, though they were declared proclaimed offender on 20.04.2017 as per the report of the police, however, later on, they appeared before the trial Court on 23.08.2017 and got recorded their statements in support of the compromise, I deem it appropriate to quash the aforesaid order dated 20.04.2017 passed by the trial Court on payment of cost of ₹ 50,000/-.

A perusal of the allegations in the FIR reveals that the present case squarely falls in the category of cases that can be quashed by the High Court, in exercise of its inherent power under Section 482 of the Code. Keeping in view authoritative enunciation of law laid down by Hon'ble the Supreme Court of India in ***“Gian Singh vs State of Punjab and another”***, ***2012(4) R.C.R. (Criminal) 543*** and in the light of facts and circumstances of the present case, this Court is of the considered opinion that continuation of criminal proceedings would amount to abuse of process of law and it is expedient in the interest of justice that criminal proceedings are put to an end.

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.”

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, this petition is allowed. FIR No. 0165 dated 27.08.2016, under Sections 406 and 420 of the Indian Penal Code, 1860, registered at Police Station Kotwali, Patiala (Annexure P-1) as well as order dated 20.04.2017, declaring petitioners No. 1 to 3 as proclaimed offenders, and all the consequential proceedings, arising therefrom, are ordered to be quashed qua the petitioners herein. However, this will be subject to payment of ₹50,000/- to be deposited in the Government Treasury by the

petitioners in a head to be nominated by the trial Court.

The petitioners are directed to deposit the aforesaid cost on or before 31.08.2018 and the trial Court will consign the file to Record Room only thereafter, failing which this petition shall be deemed to have been dismissed.

09.07.2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No