

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30110-2017 (O&M)

Date of decision: 07.02.2018

Sarfraz @ Jagga and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: None for the petitioners.

Mr. Rahul Rathore, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

CRM-3989-2018

Prayer in this application is for impleading Ashu @ Arshad son of Babu as respondent No.4.

For the reasons stated in the application, same is allowed. Ashu @ Arshad son of Babu resident of Mohalla Iftikhar Ganj, Malerkotla, District Sangrur is impleaded as respondent No.4. Amended memo of parties dated 01.02.2018 is taken on record.

CRM stands disposed of.

CRM-M-30110-2017

The petitioners have prayed for quashing of FIR No.45 dated 08.05.2017 for the offences punishable under Sections 452, 323, 148, 149, 506 of the Indian Penal Code ('IPC' for short), registered at Police Station City-I, Malerkotla, District Sangrur and all the subsequent proceedings

arising therefrom, on the basis of compromise effected between the parties.

Vide order dated 18.08.2017, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard to genuineness of the compromise. Later on, on perusal of the FIR, it was found that there is one more accused namely Ashu @ Arshad son of Babu Ram, who is not arrayed as petitioner or respondent and therefore, the petitioner sought time to implead him as party and the petitioners were again directed to appear before the trial Court to record their statements if the compromise is effected with the aforesaid accused namely Ashu @ Arshad.

As per the report dated 30.01.2018 submitted by the trial Court, both the complainants-respondents No.2 and 3 have stated that they have compromised the matter with the petitioners Sarfraz @ Jagga, Mohd. Shehbaz and Shehnaz @ Bhaipi as well as the newly added respondent No.4 i.e. 4th accused namely Ashu @ Arshad. The trial Court has submitted a report that the compromise is voluntarily without any coercion or undue influence and complainants have no objection in case the FIR against the petitioners and newly added respondent No.4 namely Ashu @ Arshad is quashed.

I have heard counsel for the parties and perused the case file.

As per the Full Bench judgement 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 the 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 what has been discussed hereinabove, the present petition is allowed and FIR No.45 dated 08.05.2017 under Sections 452, 323, 148, 149, 506 IPC, registered at Police Station City-I, Malerkotla, District Sangrur and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners as well as co-accused-newly added respondent No.4, however, subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Sangrur.

[ARVIND SINGH SANGWAN]
JUDGE

07.02.2018
vishnu

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