

CRM-M-30926-2017 &
CRM-M-30953-2017

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

(1)

CRM-M-30926-2017

Balwinder Singh and others

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

(2)

CRM-M-30953-2017

Karnail Singh and others

.....Petitioner(s)

Versus

State of Punjab and others

.....Respondent(s)

Date of decision: -24.01.2018

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. B.S. Bhalla, Advocate
for the petitioners in **CRM-M-30926-2017** and
for respondents No.2 to 6 in **CRM-M-30953-2017**.

Mr. Shivender Singh, Advocate
for the petitioners in **CRM-M-30953-2017** and
for respondents No.2 to 5 in **CRM-M-30926-2017** .

Mr. Harbir Sandhu, AAG, Punjab
for respondent No.1 in both cases.

MAHABIR SINGH SINDHU, J. (ORAL)

As identical questions of law and facts are involved,
therefore, I propose to decide the above mentioned petitions, arising out
of the same incident/cross-case/FIR, by means of this common judgment,
in order to avoid the repetition.

2. Initially, in the wake of complaint of complainant Karnail Singh son of Arjun Singh-respondent No.2 (for brevity “the complainant in 1st case”), a criminal case was registered against the petitioners-accused (in 1st case), vide FIR No.1 dated 05.01.2016, under Sections 324, 323, 326, 148 and 149 IPC, registered at Police Station Kot Ise Khan, District Moga.

3. Likewise, in pursuance of separate statement of complainant Ranjit Kaur wife of Pirthi Singh-respondent No.2 (for short 'the complainant in 2nd case'), a criminal cross-case was also registered against petitioners-accused (in 2nd case), vide DDR/Rapat No.28 dated 05.01.2016, under Sections 323, 324, 148 and 149 IPC, recorded in above-said FIR No.1 dated 05.01.2016.

4. Heard.

5. Both the parties were directed by this Court, vide orders dated 24.08.2017 to appear before the learned Illaqa Magistrate/trial Court and get their statements recorded and in pursuance thereof, learned Judicial Magistrate 1st Class, Moga, recorded the statements of both the parties and submitted a report dated 24.10.2017. A perusal of the report reveals that the compromise entered into between the parties is genuine, voluntary and without any coercion or undue influence.

6. It has been pointed out that this Court has recorded on 01.11.2017 that statement of respondent No.6-Gurpreet Singh alias Nitu son of Balwinder Singh, has not been received so far.

7. Learned counsel for the petitioners (in 1st case) has pointed out that as a matter of fact said Gurpreet Singh alias Nitu is a petitioner

No.3 in CRM-M-30926-2017 and his statement has already been recorded in that case.

8. In view of the above, the statement of respondent No.6 is sufficient for CRM-M-30953-2017 also.

9. Having regard to the contentions of learned counsel for the parties and the fact that the occurrence relating to cross fight on both sides, who have ultimately settled their disputes with the intervention and the compromise shall give an opportunity to them to live peacefully in future as well. Hence, it would be in the interest and justice that parties are allowed to compromise the matter as continuance of the prosecution would be an exercise in futility. It is agreed by both the parties that injuries were not on the vital part of the body. Even before this Court also, none of the parties has raised any objection against the quashing of the FIR/cross-case in question.

10. No objection has been raised by the learned State counsel on a specific query put to him by the Court with regard to quashing of the FIR/cross-case as well as all other consequential proceedings on the basis of the compromise effected between the parties in this case.

11. Hon'ble Supreme Court in case titled as **Yogendra Yadav and others Vs. State of Jharkhand and another**, 2014(9) SCC 653 has held as under:-

“4. Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable? Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be

strictly followed (Gian Singh v. State of Punjab). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

12 In view of above, the impugned FIR and its cross-version and all consequent proceedings resulting therefrom are hereby quashed.

13. Petitions are allowed.

January 24, 2018
naresh.k

(MAHABIR SINGH SINDHU)
JUDGE

Whether reportable?	Yes
Whether reasoned/speaking?	Yes