

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

CRM-M-3532-2018
Date of decision: 21.11.2018

Vijay Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ajit Singh Lamba, Advocate
for the petitioners.

Mr. Himmat Singh, DAG, Haryana.

Mr. Yashdeep Nain, Advocate
for respondent Nos. 2 and 3.

Mr. G. P. S. Bal, Advocate
for respondent Nos. 4 to 6.

ARVIND SINGH SANGWAN, J. (Oral)

By way of the present petition, filed under Section 482 Cr.P.C., the petitioners have prayed for quashing of FIR No. 1146 dated 13.12.2012, under Sections 420, 467, 468, 471 and 120-B of the IPC, registered at Police Station Sadar, Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom including report under Section 173 Cr.P.C., on the basis of the compromise (Annexure P-3) entered into between the parties.

Vide order dated 09.02.2018, 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.

Respondent Nos. 4 to 6, namely Phuli Devi, Rajesh Kumar and Prem Kumari, respectively, are the co-accused of the petitioners and the petitioners and respondent Nos. 2 & 3 are *ad idem* that the compromise has been effected between them only and not between respondent Nos. 4 to 6.

In compliance with the aforesaid directions, the trial Court has recorded the statement of respondent No. 2 Vijay Kalra, special power of attorney of complainant Ramesh Saluja, to the effect that the complainant has entered into compromise with the present petitioners only and even the statement of complainant Ramesh Saluja has been recorded subsequently to the same effect. Similar statements have been recorded by the petitioners. The trial Court has also recorded the statement of respondent Nos. 4 to 6, wherein, they have stated that they have not entered into any compromise with complainant Ramesh Saluja or his special power of attorney Vijay Kalra.

After recording the statements of the parties, the trial Court has expressed its satisfaction that the compromise entered into between the present petitioners and respondent Nos. 2 and 3 is valid, voluntary and without any pressure or coercion.

Learned counsel for the petitioners has relied upon **2010 (1) R. C. R. (Criminal) 256, Parambir Singh Gill vs. Malkiat Kaur**, wherein it has been held by this Court that if a compromise is effected between one set of accused persons, the FIR can be quashed partially. In the said judgment, this Court had relied upon **2007 (3) R. C. R. (Criminal) 479, Sarabjit Singh vs. State of Punjab**.

Learned counsel for the petitioners has also relied upon the judgment dated 16.05.2017, passed by this Court in **CRM-M-37395-2016**, titled as **Rajinder Singh vs. State of Punjab and another**, wherein, a similar

view has been taken.

Learned counsel for the petitioners further submitted that no other criminal case is pending between the parties and none of the petitioners is a proclaimed offender.

Learned State counsel, on instructions from the Investigating Officer, 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 learned counsel for the parties and perused the case file.

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 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 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 the above discussion, present petition is allowed and FIR No. 1146 dated 13.12.2012, under Sections 420, 467, 468, 471 and 120-B of the IPC, registered at Police Station Sadar, Hisar (Annexure P-1) and all the subsequent proceedings arising therefrom including report under Section 173 Cr.P.C. are ordered to be quashed qua the petitioners herein **only**, however, subject to payment of costs of ₹5,000/- to be deposited with the District Legal Services Authority, Hisar.

November 21, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

*Whether speaking/reasoned
Whether reportable*

*Yes/No
Yes/No*