

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

Sr.No.284

CRM-M-37725-2018(O & M)

Date of Decision:15.11.2018

Rahil Sandhu and others

....petitioners

Versus

State of Punjab and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.J.S.Lalli, Advocate
for the petitioners

Mr.J.P.Ratra, DAG Punjab

Mr.Sanjeev Kumar, Advocate
for respondent No.2

ARVIND SINGH SANGWAN, J. :

The petitioners have prayed for quashing of FIR No.180 dated 23.06.2018, for offence punishable under Sections 328/506 and 34 of the Indian Penal Code (in short 'IPC'), registered at Police Station Division No.8, District Police Commissionerate, Ludhiana, on the basis of the compromise effected between the parties.

Vide order dated 30.08.2018, the parties were directed to appear before the trial Court to get their statements recorded with regard to genuineness of the compromise.

A report dated 08.10.2018 along with the statements of the parties has been submitted by the Judicial Magistrate First Class, Ludhiana.

In her statement, the complainant Gagandeep Kaur has stated that the aforesaid FIR was registered on her complaint against accused Rahil

Sandhu, Rachpal Sandhu and Kokila Sandhu. She further stated that with

the intervention of the respectables and family members, both the parties have compromised the matter without any fear or coercion. A copy of the compromise was produced on record as Ex.C1. Similar is the statement recorded by the petitioners, separately.

The trial Court, on the basis of the aforesaid compromise has submitted a report expressing its satisfaction that the compromise has been effected between the parties in a legal and proper manner and the complainant has no objection if the aforesaid FIR is quashed.

Counsel for the petitioners has submitted that no other criminal case is pending between the parties and none of the petitioners has been declared as proclaimed offender.

Counsel for the State, on instructions from HC Sukhdev Singh and assisted with counsel for respondent No.2 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 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 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:-

“57. 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, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.180 dated 23.06.2018, for offence punishable under Sections 328/506 and 34 IPC, registered at Police Station Division No.8, District Police Commissionerate, Ludhiana, and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners –Rahil Sandhu, Rachhpal Sandhu and Kokila Sandhu, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Ludhiana.

(ARVIND SINGH SANGWAN)
JUDGE

15.11.2018

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No