

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

**1. CRM-M-38279-2018 (O&M)**

**Inderjit Singh Bagha**

**...Petitioner**

**Versus**

**State of Punjab and another**

**...Respondents**

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**2. CRM-M-36719-2018 (O&M)**

**Inderjit Singh Bagha**

**...Petitioner**

**Versus**

**State of Punjab and another**

**...Respondents**

**Date of decision: 24.09.2018**

**CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN**

**Present:-** Ms. Sarika Gupta, Advocate  
for the petitioner in both petitions.

Mr. M. S. Nagra, AAG, Punjab.

Ms. Divya Godara, Advocate  
for respondent No. 2/complainant.

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**ARVIND SINGH SANGWAN, J. (Oral)**

**CRM-33602-2018 in CRM-M-38279-2018**  
**CRM-33430-2018 in CRM-M-36719-2018**

Applications are allowed as prayed for, subject to all just exceptions.

Documents are taken on record.

**Main cases**

This common order shall dispose of above noted two petitions as they arise out of the same FIR.

Prayer in the first petition, bearing CRM-M-38279-2018, is for quashing of FIR No. 106 dated 12.08.2011, under Sections 307, 324, 323, 341, 148 and 149 of the IPC at Police Station Bullowal, Hoshiarpur, on the basis of the compromise (Annexure P-3) and statement of the complainant (Annexure P-4), already recorded in CRM-M-37203-2018, filed by one of the co-accused.

Prayer in the second petition, bearing CRM-M-36719-2018, is for setting aside the order dated 23.12.2014, passed by the trial Court, vide which, the petitioner was declared a proclaimed offender in the proceedings under the aforesaid FIR.

While issuing notice of motion in CRM-M-36719-2018, the following order has been passed on 28.08.2018:-

**“Learned counsel for the petitioner submits that no report under Section 173 Cr.P.C. was presented against the petitioner. It is further submitted that the petitioner was not in India, when he was summoned as an additional accused under Section 319 Cr.P.C. and therefore, the proceedings initiated under Section 82/83 Cr.P.C. were not properly conducted and the petitioner was not served at his ordinary place of residence. Counsel for the petitioner further submits that five other co-accused, who are facing the trial, have already compromised the matter with the complainant and the aforesaid FIR No.106 stands quashed in view of the compromise vide order dated 09.11.2016 passed in CRM-M-37203-2015 and the**

**order dated 19.05.2017 passed in CRM-M-43785-2016.**

**Learned counsel for the petitioner has further submitted that while recording statement of the complainant in the aforesaid petitions, the complainant has even stated that he has compromised the matter with all the accused persons including the petitioner. It is thus submitted that the petitioner is ready to surrender before the trial Court and apply for bail.**

**Notice of motion for 24.09.2018.**

**In the meantime, petitioner is directed to appear before the trial Court/Illaqa Magistrate within a period of 15 days from today and the trial Court will release the petitioner on interim bail subject to furnishing his bail/surety bonds. This will however be subject to deposit of costs of Rs.50,000/- in the Govt. Treasury under a head to be nominated by the trial Court.**

**Till the petitioner appear before the trial Court, his arrest, in pursuance to the impugned order (Annexure P-2), shall remain stayed.”**

Learned counsel for the petitioner has placed on record copy of the order dated 05.09.2018, passed by the Additional Sessions Judge, Hoshiarpur, vide which, the petitioner had deposited the cost of Rs. 50,000/- in the Government Treasury as well as copy of order dated 06.09.2018, vide which, the petitioner was released on interim bail.

A perusal of the record shows that the co-accused of the petitioner, had filed CRM-M-37203-2015 in which vide order dated 09.11.2016 the impugned FIR No. 106 was quashed qua Jatinder Singh alias Billa and one other co-accused. Similarly, subsequently, vide order dated

15.03.2018 passed in CRM-M Nos. 13871 & 13884 of 2017, filed by co-accused Maninder Singh Rehill @ Lally, the aforesaid FIR was quashed qua the said accused person.

Learned counsel for the petitioner has further relied upon order dated 19.05.2017, passed in CRM-M-43785-2016, in which, the FIR in question was quashed qua another accused Tarlochan Singh, on the basis of the compromise between the parties.

Learned counsel for the complainant has not disputed the fact that the FIR in question has been quashed in the aforesaid petitions qua other accused persons on the basis of the compromise entered into between the parties and has also acknowledged that the complainant has already made the statement in the aforesaid proceedings that he has compromised the matter with all the accused persons including petitioner herein.

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 predominately

**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, these petitions are allowed and  
FIR No. 106 dated 12.08.2011, under Sections 307, 324, 323, 341, 148 and

149 of the IPC at Police Station Bulloval, Hoshiarpur as well as order dated 23.12.2014, passed by the trial Court, declaring the petitioner as a proclaimed offender and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner herein.

September 24, 2018

*Waseem Ansari*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*