

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

Sr.No.285

**CRM-M-39952-2018
Date of Decision:10.12.2018**

Dr.Sahil Mittal

....petitioner

Versus

State of Haryana and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.K.D.Sachdeva, Advocate
for the petitioner

Mr.Naveen Sheoran, DAG Haryana

Mr.Priyanshu Kamra, Advocate for
Mr.Akashdeep Sethi, Advocate
for respondent No.2

ARVIND SINGH SANGWAN, J. (ORAL):

By invoking Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No.617 dated 17.09.2016 for offence punishable under Sections 406, 420 of the Indian Penal Code, 1860, registered with Police Station Hisar Civil Lines, District Hisar and proceedings emanating therefrom on the basis of compromise (Annexure P2) arrived at between the parties.

In pursuance to the order dated 13.09.2018, the petitioner, complainant-Pawan, along with five other victims namely Bajrang Lal, Krishan, Vinod Kumar, Dholu and Bansi, have recorded their respective statements that they have settled the dispute with the petitioner and they do not want to take any further action against the petitioner. It is further stated

that they have entered into the compromise without any fear and in order to maintain peace and harmony.

Learned trial Court has also recorded the statement of investigating officer SI Dogar Singh, who has stated that there are above named five victims and only the petitioner is the accused in the present FIR. Trial Court vide its report dated 23.10.2018 has expressed its opinion that from the statement of the parties, it is apparent that they have entered into a compromise on their own free will and the complainant has no objection if the present FIR is quashed.

Learned counsel for the State, on instructions from ASI Mehar 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 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 petition is allowed and FIR No.617 dated 17.09.2016 for offence punishable under Sections 406, 420 of the Indian Penal Code, 1860, registered with Police Station Hisar Civil Lines, District Hisar and all subsequent proceedings arising therefrom, are ordered to be quashed, *qua* the petitioner subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Hisar.

(ARVIND SINGH SANGWAN)
JUDGE

10.12.2018

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Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No