

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

CRM-M-40954-2018 (O&M)

Date of Decision:-21.11.2018

Jagseer Singh @ Seera and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Vikas Garg, Advocate
for the petitioners.

Mr. Harbir Sandhu, AAG, Punjab.

MANOJ BAJAJ, J.(Oral)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing of FIR No.62 dated 12.09.2011 registered under Sections 324, 323, 326 and 34 of Indian Penal Code, 1860 at Police Station Bajakhana, District Faridkot, on the basis of compromise dated 17.08.2018 (Annexure P-2).

Pursuant to order dated 17.09.2018 of this Court, the parties appeared before the trial Court/Illaq Magistrate on 08.10.2018 to get their statements recorded. The learned Judicial Magistrate Ist Class, Faridkot has submitted his report vide letter bearing No.256 dated 20.10.2018 duly forwarded by the learned District and Sessions Judge vide letter No.3306/EB dated 23.10.2018.

According to the report, the learned Judicial Magistrate Ist Class, Faridkot is satisfied that compromise entered into between the parties is genuine, voluntary, without any coercion or undue influence with their free will.

As per the Full Bench judgement 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 the 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.”

Considering the report of the learned Judicial Magistrate Ist Class, Faridkot dated 20.10.2018 and the fact that the compromise will bring peace and harmony in relations between the parties, FIR No.62 dated 12.09.2011 registered under Sections 324, 323, 326 and 34 of Indian Penal

Code, 1860 at Police Station Bajakhana, District Faridkot is hereby quashed,
qua petitioners.

Disposed off.

21.11.2018

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(MANOJ BAJAJ)
JUDGE

Whether speaking /reasoned

Whether Reportable

Yes / No

Yes / No