

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr.No.269

CRM-M-40503-2017
Date of Decision:10.12.2018

Kamaljit Singh @ Kamlu

....petitioner

Versus

State of Punjab and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Amit Dhawan, Advocate
for the petitioner

Mr.J.P.Ratra, DAG Punjab

Mr.S.P.Soi, 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.93 dated 05.06.2014 for offence punishable under Sections 108-A, 506, 509 of the Indian Penal Code, 1860, and Sections 65,66-A, 67 of the Information and Technology Act (offence under Section 201 IPC added later on) registered with Police Station Lohian, District Jalandhar.

In pursuance to the order of notice of motion, respondent No.2 appeared and filed a miscellaneous application for placing on record the compromise dated 30.05.2018 (Annexure R1).

Thereafter, respondent No.2 was referred to appear before the

Mediation and Conciliation Centre of this Court for recording his respective statement in support of the compromise (Annexure R1). Complainant-Pardeep Kumar/respondent No.2 has made the following statement before the Mediator:

1. *I had got registered FIR No.93 dated 05.06.2014 under Sections 108-A, 506, 509 and 201 IPC and Sections 65,66-A, 67 of the Information and Technology Act at Police Station Lohian, District Jalandhar against Kamaljeet Singh @ Kamlu-petitioner and Jaswinder Singh @ Jassu and Navtesh Singh @ Teji.*
2. *That Now I have compromised the matter with them Kamaljeet Singh @ Kamlu-petitioner. Jaswinder Singh @ Jassu was acquitted by the Court and the proceedings against Navtej Singh @ Teji has been quashed by this Hon'ble Court.*
3. *The respectable of the village has got effected with Kamaljeet Singh @ Kamlu-petitioner. I have got no objection if the FIR No.93 dated 05.06.2014 under Sections 108-A, 506, 509 and 201 IPC and Sections 65,66-A, 67 of the Information and Technology Act at PS Lohian, District Jalandhar is quashed against Kamaljeet Singh @ Kamlu-petitioner*
4. *I have seen compromise deed "Annexure P3" and my affidavit "Annexure R1" is placed on file both the bear my signature and I admit that both are correct."*

Learned counsel for the petitioner has thus submitted that the matter has been settled against all the three persons and as noticed in the order dated 30.10.2017, co-accused Jaswinder Singh @ Jassu stands

acquitted by the Juvenile Justice Board, Jalandhar, vide judgment dated 18.01.2016 and qua other co-accused namely Navtej Singh @ Teji, FIR was quashed vide order dated 24.05.2016 passed in CRM-M-14486-2016. The operative part of the order dated 24.05.2016 reads as under:

“ This is a petition under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 93 dated June 05, 2014, under Sections 108-A, 506, 509 IPC and 65, 66-A, 67 Information Technology Act (offence under Section 201 IPC added later on) registered at Police Station Lohian, District Jalandhar (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-2).

2. Report of learned trial Court has been received, wherein, it has been categorically observed that the matter has been compromised between the parties with the intervention of respectable persons of the locality, voluntarily, without any pressure, coercion and the same appears to be genuine. Even otherwise, matter involved in these proceedings is personal in nature, which has been amicably put at rest.

*3. So, in view of circumstances narrated above as well as the observations made in cases reported as **Kulwinder Singh and others vs. State of Punjab and another; 2007(3) RCR (Criminal) 1052 and Narinder Singh and Others Vs. State of Punjab and Another (2014) 6 SCC 466**, I am of the considered opinion that continuation of criminal proceedings between the parties would be an abuse of the process of law and the present compromise is for the benefit of the parties and would certainly bring peace and harmony between them.*

4. Consequently, instant petition stands allowed and FIR No. 93 dated June 05, 2014, under Sections 108-A, 506,

509 IPC and 65, 66-A, 67 Information Technology Act, (offence under Section 201 IPC added later on) registered at Police Station Lohian, District Jalandhar (Annexure P-1) and all subsequent proceedings arising out of the same are quashed qua petitioner.”

Learned State counsel has submitted that though the FIR is pending since 2014, however, the petitioner was never declared a proclaimed offender as the complainant has compromised the matter with the other co-accused.

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.

Noticing the aforesaid fact and also in view of the statement made by respondent No.2-Pardeep Kumar, the present petition is allowed and FIR No.93 dated 05.06.2014 for offence punishable under Sections 108-A, 506, 509 IPC and Sections 65,66-A, 67 of the Information and Technology Act (offence under Section 201 IPC added later on) registered with Police Station Lohian, District Jalandhar. and all subsequent proceedings arising therefrom, are ordered to be quashed, *qua* the petitioner.

(ARVIND SINGH SANGWAN)
JUDGE

10.12.2018

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Whether speaking/reasoned

Yes/No.

Whether reportable-

Yes/No