

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

1. CRM-M-42141-2017

Gurjinder Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

2. CRM-M-42311-2017

Joginder Singh @ Lally and others

...Petitioners

Versus

State of Punjab and others

...Respondents

Date of decision: 09.10.2018

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

Present:- Mr. Shubham Mehta, Advocate for
Mr. Vivek Salathia, Advocate
for the petitioners in CRM-M-42141-2017;
for respondents No. 2 and 3 in CRM-M-42311-2017.

Mr. Vivek Singla, Advocate
for the petitioners in CRM-M-42311-2017;
for respondent No. 2 in CRM-M-42141-2017.

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

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the version and its cross version.

These petitions have been filed under Section 482 of the Code
of Criminal Procedure, 1973 for quashing of FIR No. 0062 dated

26.07.2017, under Sections 323, 324, 148, 149 of the IPC (Sections 307, 326 IPC added later on) and its cross version registered in Rapat No. 003 dated 27.07.2017, under Sections 324, 323, 148, 149 of the IPC (Section 326 IPC added later on), registered at Police Station Qila Lal Singh, Batala, District Gurdaspur, along with all consequential proceedings arising therefrom, on the basis of compromise (Annexures P-2 and P-3 in both petitions), entered into between the parties.

Vide orders dated 12.12.2017 passed in both petitions, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding genuineness of compromise entered into between the parties.

In compliance with the aforesaid directions, two separate reports dated 30.01.2018 have been submitted by the Judicial Magistrate First Class, Batala, wherein it has been reported that statement of both the sets of petitioners and complainants have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will. It is also reported that none of the accused persons has been declared as proclaimed offender.

Learned counsel for the parties submit that no other criminal case is pending between the parties and none of the petitioner is a proclaimed offender. Learned counsel for the petitioners in CRM-M-42141-2017 also submits that in view of the fact that injury No. 1, as per X-ray report, was declared only grievous and not dangerous to life, thus, provisions of Section 307 IPC would not be attracted.

Learned State counsel, on instructions from ASI Jatinder Singh, 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 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 the above discussion, these petitions are allowed and FIR No. 0062 dated 26.07.2017, under Sections 323, 324, 148, 149 of the IPC (Sections 307, 326 IPC added later on) and its cross version registered in Rapat No. 003 dated 27.07.2017, under Sections 324, 323, 148, 149 of the IPC (Section 326 IPC added later on), registered at Police Station Qila Lal Singh, Batala, District Gurdaspur, and all the subsequent proceedings arising therefrom are ordered to be quashed qua both the sets of petitioners herein, however, subject to payment of costs of ₹3,000/- by each set of petitioners, to be deposited with the District Legal Services Authority, Gurdaspur.

October 09, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No