

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

**CRM No.M-43252 of 2017
Decided on: 14.02.2018**

Sukhwant Singh and others

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. S.S. Swaich, Advocate for the petitioners.

Ms. Samina Dhir, DAG, Punjab.

Ms. Divya Jerath, Advocate for respondents No.2 & 3.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.83 dated 01.08.2013, for offence punishable under Sections 452, 325, 324, 323, 472, 148 and 149 of the Indian Penal Code (in short 'IPC') (Section 325 IPC added later) registered at Police Station Khamanon, District Fatehgarh Sahib, on the basis of the compromise effected between the parties.

Vide order dated 16.11.2017, the parties were directed to appear before the trial Court to get their statements recorded with regard to genuineness of the compromise.

In pursuance thereof, the Sub-Divisional Judicial Magistrate, Khamanon has submitted its report dated 06.01.2018, wherein it has been reported that statements of the petitioners and respondent No.2 have been recorded and statements made by the parties 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.

As per this report, all the accused i.e. the petitioners namely Sukhwant Singh @ Sukha, Lakhi, Darshana @ Darshan Kaur, Jeet Singh and Raj Rani and the complaint have appeared before the trial Court and have acknowledged the compromise which is attached as Annexure P1. It is also mentioned that there is a civil suit pending between the parties titled as Ajaib Singh vs Darshana Kaur and one criminal complaint i.e. Sukhwant Singh vs Rupinder Singh under Sections 323, 324, 148, 149, 452, 506 and 120-B IPC filed by Sukhwant Singh against Ajaib Singh and his other family members is also pending. It is further stated in the report of the trial Court that the complaint has stated that he will withdraw the same in view of the compromise and Ajaib Singh and his sons have also agreed to withdraw the aforesaid civil suit. It is also stated that one of the accused namely Gurmeet Singh (who is not the petitioner) was declared as proclaimed offender on 04.10.2016.

Counsel for the petitioners has submitted that the trial qua the said accused i.e. Gurmeet Singh has been separated and presently only the petitioners are facing the trial. The trial Court has, thus, recorded a finding that the compromise has been effected between the parties at their own free will, without any coercion or pressure and the same is genuine. It is further submitted that no other criminal case is pending between the parties and none of the petitioner has been declared as proclaimed offender.

Counsel for the State 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 petitioner No.1 namely Sukhwant Singh @ Sukha is the complainant in the aforesaid criminal complaint and has undertaken to withdraw the same in view of the compromise and 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.83 dated 01.08.2013, for offence punishable under Sections 452, 325, 324, 323, 472, 148 and 149 IPC (Section 325 IPC added later) registered at Police Station Khamanon, District Fatehgarh Sahib and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners subject to payment of costs of Rs.5,000/- to be deposited with the District Legal Services Authority, Fatehgarh Sahib.

(ARVIND SINGH SANGWAN)
JUDGE

14.02.2018
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No