

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-43377 of 2017

Date of Decision: January 10, 2018

Shaffi @ Mohd.Shafir and others.....Petitioners

Versus

State of Punjab and others.....Respondents

CORAM:HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Vaibhav Narang, Advocate for the petitioners.
Mr.Abhey Pal Singh Gill, Assistant Advocate General,Punjab
Mr.Subhash Chand, Advocate for respondents 2 and 3

ARVIND SINGH SANGWAN, J.

Petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.57 dated 30.3.2016 under Sections 324, 323, 341, 379, 148 and 149 of the Indian Penal Code, 1860 ('IPC' for short) registered at Police Station Kamboj, District Amritsar Rural (Annexure P2) and all consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 5.5.2016 (Annexure P1) .

Vide order dated 17.11.2017, a direction was given to the trial Court/Area Judicial Magistrate to record the statements of the parties and submit a report regarding the genuineness of the compromise effected

between the parties and also to intimate whether any accused is proclaimed offender.

In pursuance thereof, the trial Court has submitted a report dated 2.1.2018 (forwarded by the District and Sessions Judge Amritsar on 3.1.2018), after recording the statements of the parties. The trial Court has submitted that the complainant-Baudin @ Bau and Shamudeen and accused-Shaff @ Mohd. Shafir, Makhan @ Mohd, Sia @ Md Sharid, Roshan @ Roshan Deep, Ahudin @ Hakam Deen and Sonu have appeared along with their respective counsel, who had identified them and got their statements recorded acknowledging that the compromise had been effected voluntarily, without any coercion or any undue influence. This fact is not disputed by learned State Counsel, who has submitted, on instructions from Assistant Sub Inspector-Rajbir Singh that none of them is proclaimed offenders.

Perusal of allegations in the FIR reveals that the present case squarely falls in the category of cases that can be quashed by the High Court, in exercise of its inherent power under Section 482 of the Code. Keeping in view authoritative enunciation of law laid down by Hon'ble the Supreme Court of India in **“Gian Singh vs State of Punjab and another”, 2012(4) R.C.R. (Criminal) 543** and in the light of facts and circumstances of the present case, this Court is of the considered opinion that continuation of criminal proceedings would amount to abuse of process of law and it is expedient in the interest of justice that criminal proceedings are put to an end.

As per the Full Bench judgement of this Court in

Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR

(Criminal) 1052, 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 felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

The Apex Court in **Central Bureau of Investigation vs. Sadhu Ram Singla and others (2017) 5 Supreme Court Cases 350** has held as under:-

“Having carefully considered the singular facts and circumstances of the present case, and also the law relating to the continuance of criminal cases where the complainant and the accused had settled their differences and had arrived at an amicable arrangement, we see no reason to differ with the view taken in Manoj Sharma’s case (supra) and several decisions of this Court delivered thereafter with respect to the doctrine of judicial restraint. In concluding hereinabove, we are not unmindful of the view recorded in the decisions cited at the Bar that depending on the attendant facts, continuance of the criminal proceedings, after a compromise has been arrived at between the complainant and the accused, would amount to abuse of process of Court and an exercise in futility since the trial would be prolonged and ultimately, it may end in a decision which may be of no consequence to any of the parties.”

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.

Accordingly, this petition is allowed. FIR No.57 dated 30.3.2016 under Sections 324, 323, 341, 379, 148 and 149 IPC registered at Police Station Kamboj, District Amritsar Rural (Annexure P2) and all the consequential proceedings, arising therefrom, are ordered to be quashed qua the petitioners by way of compromise subject to the petitioners paying costs in the sum of ₹5000/- in the Office of District Legal Services Authority, Amritsar within 8 weeks from today, failing which this order shall stand recalled automatically without reference to the Court. .

(ARVIND SINGH SANGWAN)
JUDGE

January 10,2018
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Whether speaking/reasoned: Yes/No
Whether Reportable:Yes/No