

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

1. CRM-M-43888-2017 (O&M)

Ashish and others

...Petitioners

Versus

State of Haryana and others

...Respondents

2. CRM-M-38283-2018

Moher Singh and others

...Petitioners

Versus

State of Haryana and others

...Respondents

Date of decision: 13.09.2018

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

Present:- Mr. Sandeep Singh, Advocate
for the petitioners in CRM-M-43888-2017;
for respondents No. 2 to 6 in CRM-M-38283-2018.

Mr. Kamaljeet Dahiya, Advocate
for the petitioners in CRM-M-38283-2018;
for respondents No. 2 to 5 in CRM-M-43888-2017.

Ms. Harpreet Kaur, AAG, Haryana.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-3895-2018 in CRM-M-43888-2017

Prayer in this application is for adding Section 325 IPC in the
main petition as well as in the prayer clause.

For the reasons mentioned in the application, the same is allowed.

Registry is directed to make the necessary corrections.

Main cases

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. 276 dated 20.08.2013, under Sections 323, 324, 325, 506 read with 34 of the IPC and its cross version registered at Police Station Nissing, District Karnal, along with all consequential proceedings arising therefrom, on the basis of compromise entered into between the parties.

Vide order dated 20.11.2017 passed in CRM-M-43888-2017, 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 number of persons arrayed as accused in the FIR; the status of the trial and whether the compromise is genuine, voluntary and without any coercion or undue influence. Thereafter, the accused in cross-version filed CRM-M-38283-2018 which was ordered to be listed with the aforesaid petition i.e. CRM-M-43888-2017.

In compliance with the aforesaid directions, a report dated 15.12.2017 has been submitted by the JMIC, Karnal stating that there is an FIR case as well as its cross version between the parties and the parties have appeared before the Court and have submitted a compromise Ex. C-1. As per this compromise, the parties have settled their dispute with regard to the

version and cross version case. It is also recorded in this compromise that the parties are in the close relations and they are the residents of the same village and the compromise is in the larger interest of the parties and to maintain peace and harmony in the village in future. The trial Court has also recorded the statements of the parties and has reported that the compromise is genuine and the statements have been suffered by the parties voluntarily without any pressure, coercion or undue influence.

Learned counsel for the parties submit that no other criminal case is pending between the parties and none of the petitioners is a proclaimed offender.

Learned State counsel, on instructions from ASI Rama 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 predominately 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. 276 dated 20.08.2013, under Sections 323, 324, 325, 506 read with 34 of the IPC and its cross version, registered at Police Station Nissing, District Karnal 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, Karnal.

September 13, 2018

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No