

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

**CRM-M No. 44867 of 2018
Date of Decision:-04.12.2018**

Sanjay Joshi and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Vishal Gupta, Advocate
for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Sukhpreet Singh Kang, Advocate
for respondents No.2 and 3.

MANOJ BAJAJ J.(Oral)

By way of the present petition, filed under Section 482 Cr.P.C., the petitioners have prayed for quashing of FIR No. 0034 dated 28.9.2016, under Sections 420, 506, 406 and 120-B IPC, Police Station Bhaini Mian Khan, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of the compromise dated 07.5.2018 (Annexure P-2) entered into between the parties.

Vide order dated 10.10.2018, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and make report as to its satisfaction and submit

the same to this Court. The trial Court was also directed to intimate if any of the parties to this petition has been declared as proclaimed offender.

In compliance with the aforesaid direction, a report dated 15.11.2018 has been submitted by the Judicial Magistrate 1st Class, Gurdaspur, wherein it has been reported that statements of the petitioners and complainant/respondent No.2 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.

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

The factum of compromise between the parties has not been disputed by learned State counsel as well as learned counsel for respondents No.2 and 3.

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 the 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 what has been discussed hereinabove, present

petition is allowed and FIR No. 0034 dated 28.9.2016, under Sections 420, 506, 406 and 120-B IPC, Police Station Bhaini Mian Khan, District Gurdaspur (Annexure P-1) and all the subsequent proceedings arising therefrom are ordered to be quashed qua petitioners.

Disposed off.

December 04, 2018
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No