

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

**CRM No.M-46268 of 2017
Decided on: 25.01.2018**

Attar Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

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

Mr. Rahul Rathore, DAG, Punjab.

Mr. J.S. Chahal, Advocate for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.91 dated 24.06.2017, for offence punishable under Sections 307, 323, 324, 148 and 149 of the Indian Penal Code (in short 'IPC') registered at Police Station Sirhind, District Fatehgarh Sahib, on the basis of the compromise effected between the parties.

Vide order dated 06.12.2017, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard to genuineness of the compromise.

The parties have appeared before the trial Court in pursuance to the order dated 06.12.2017 and have got their statements recorded acknowledging the compromise.

The report of the trial Court dated 11.12.2017 has been received and as per this report, all the 08 accused persons who are petitioners in the present petition have entered into a valid and legal

compromise with injured/complainant – Bhupinder Singh i.e. respondent No.2.

A perusal of the report submitted by the trial Court show that the complainant – Bhupinder Singh in his statement has stated that he has voluntarily compromised the matter with the accused without any pressure or influence and has acknowledged the compromise Ex.CX which bears his signatures as well as signatures of all the accused persons. It is also stated that the compromise is in the welfare of both the parties and it will bring peace and harmony between them for all times to come and the compromise Ex.CX is a genuine document and is based on the voluntary act of the parties and the complainant has no objection if the FIR is quashed.

Similar statements have been made by the accused persons. It is also stated in the report that none of the petitioners/accused were declared as proclaimed offender.

Counsel for the petitioners has referred to the MLR (Annexure P3) as well as opinion of the Board (Annexure P4) dated 01.08.2017 to submit that the injuries sustained by the complainant – respondent No.2 were declared to be simple in nature and are not dangerous to life. It is, thus, submitted on behalf of the petitioners that on the face of it, the offence under Section 307 IPC is not made out in this case.

Counsel for the State, on instructions from ASI Raghbir Singh, has also not disputed the factual position that as per the opinion given by the Medical Board, all the injuries were declared to be simple in nature and were not dangerous to life.

Thus, this Court is of the opinion that the offence under Section 307 IPC is not made against the petitioners/accused.

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 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.91 dated 24.06.2017, for offence punishable under Sections 307, 323, 324, 148 and 149 IPC registered at Police Station Sirhind, 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

25.01.2018
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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No