

**CRM-M-46357-2017 and
CRM-M-46339-2017**

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

(1)

CRM-M-46357-2017

Major Singh and others

.....Petitioners

Versus

State of Punjab and another

.....Respondents

(2)

CRM-M-46339-2017

Sukhdev Singh @ Kaka Singh

.....Petitioners

Versus

State of Punjab and another

.....Respondents

Date of decision: -16.1.2018

CORAM : HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

**Present: Mr. A.P.S. Rehan, Advocate
for the petitioner in CRM-M-46357-2017 and
for respondent No.2 in CRM-M-46339-2017.**

**Mr. Sandeep Godara, Advocate
for the petitioners in CRM-M-46339-2017 and
for respondent No.2 in CRM-M-46357-2017.**

**Mr. Amitoj Singh Dhaliwal, DAG, Punjab
for respondent No.1 in both cases.**

MAHABIR SINGH SINDHU, J. (ORAL)

As identical questions of law and facts are involved, therefore, I propose to decide above indicated petitions, arising out of the same incident/cross-case/FIR, by means of this common order to avoid the repetition.

2. Initially, in the wake of complaint of complainant Amarjit Singh son of Kishan Singh-respondent No.2 (for brevity "the complainant in 1st case"), a criminal case was registered against the petitioners-accused (in 1st case), vide FIR No.72 dated 22.10.2017, under Sections 323, 324, 148, 149 IPC (Section 326 IPC added later on), registered at Police Station Ghuman Kalan, District Gurdaspur.

3. Likewise, in pursuance of separate statement of complainant Tarjinder Singh @ Tajinder Singh son of Swaran Singh-respondent No.2 (for short 'the complainant in 2nd case'), a criminal cross-case was also registered against petitioners-accused (in 2nd case), vide General Diary No.17 dated 23.10.2017, under Sections 323, 324, 148, 149 IPC (Section 326 IPC added later on) recorded in above-said FIR No.72 dated 22.10.2017.

4. Heard.

5. Both the parties were directed by this Court, vide orders dated 6.12.2017 to appear before the learned trial Court/Illaq Magistrate and get their statements recorded and in pursuance thereof, learned learned Judicial Magistrate Ist Class, Gurdaspur, recorded the statements

of both the parties and submitted a report dated 4.1.2018. A perusal of the report reveals that the compromise entered into between the parties is with their own sweet will, without any inducement and coercion.

6. Having regard to the contentions of learned counsel for the parties and the fact that the occurrence relating to cross fight on both sides, who have ultimately settled their disputes with the intervention and the compromise shall give an opportunity to them to live peacefully in future as well. Hence, it would be in the interest of justice that parties are allowed to compromise the matter as continuance of the prosecution would be an exercise in futility. It is agreed by both the parties that injuries were not on the vital part of the body. Even before this Court also, none of the parties has raised any objection against the quashing of the FIR/cross-case in question.

7. Hon'ble Supreme Court in case titled as ***Yogendra Yadav and others vs. State of Jharkhand and another, 2014(9) SCC 653*** has held as under:-

“Now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable? Needless to say that offences which are non-compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly

followed (Gian Singh v. State of Punjab). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under Section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquility and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time

and energy. That will also unsettle the compromise and obstruct restoration of peace.”

8. In view of above, the impugned FIR and its cross-version and all consequent proceedings resulting therefrom are hereby quashed.

9. Petitions are allowed.

16.1.2018
Gaurav Sorot

(MAHABIR SINGH SINDHU)
JUDGE

Whether reportable? **No**

Whether reasoned/speaking? **No**