

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

**CRM-M-48068-2017
Date of decision: 05.07.2018**

Sanju and others

...Petitioners

Versus

U.T., Chandigarh and another

..Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Rujhan Dhawan, Advocate for
Mr. Karan Singla, Advocate
for the petitioners.

Mr. Parveen Chauhan, Advocate for
Mr. Gagandeep S. Wasu, Addl. P. P., U.T., Chandigarh.

Mr. Bikram Chaudharay, Advocate
for respondent No. 2/complainant.

ARVIND SINGH SANGWAN, J. (Oral)

Petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 285 dated 12.09.2011, under Sections 147, 148, 149, 323, 325, 342 and 506 of the Indian Penal Code, 1860 (*for short 'IPC'*), registered at Police Station Manimajra, Chandigarh (Annexure P-1) along with all consequential proceedings arising therefrom, on the basis of compromise dated 17.11.2017 (Annexure P2), entered into between the parties.

Vide order dated 23.01.2016, 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; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or

undue influence and whether any accused person is involved in any other FIR.

In compliance of the above said direction, the trial Court has recorded the statement of complainant Col.(retd.) Subhash Chander Kohar, however, the complainant is not identified by any person and the trial Court has not collected any proof of his identification and has submitted the report in a very casual manner. However, learned counsel for the complainant has placed on record self attested photocopy of the Aadhar Card of the complainant. The trial Court has also recorded the statements of all accused persons as well as of the complainant wherein they have acknowledged that there is a valid and legal compromise between them and the complainant do not want to proceed further in pursuance to the FIR in question. The trial Court has also reported that the matter has been amicably settled without any undue pressure or influence and none of the accused persons is declared as a proclaimed offender. As per the report of ASI Rajinder Kumar also, the accused persons are not involved in any other FIR.

A perusal of the 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. 285 dated 12.09.2011, under Sections 147, 148, 149, 323, 325, 342 and 506 of the Indian Penal Code, 1860 (*for short 'IPC'*), registered at Police Station Manimajra, Chandigarh (Annexure P-1) and all the consequential proceedings, arising therefrom, are ordered to be quashed qua the petitioners herein, subject to payment of costs in the sum of ₹10,000/- in the Office of District Legal Services Authority, Chandigarh within 8 weeks from today, failing which this order shall stand recalled automatically without reference to the Court.

July 05, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No