

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr.No.247

CRM-M-48195-2017(O & M)

Date of Decision:19.11.2018

Tejinder Kakkar and another

....petitioners

Versus

State of Haryana and another

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Richudeep Bajaj, Advocate for
Mr.Rajiv Kataria, Advocate
for the petitioners

Mr.Naveen Sheoran, DAG Haryana

None for respondent No.2

ARVIND SINGH SANGWAN, J. (ORAL):

Prayer in this petition is for quashing of FIR No.88 dated 27.02.2014, for offence punishable under Sections 420/406/506/120-B of the Indian Penal Code (in short 'IPC'), registered at Police Station Sushant Lok, District Gurgaon, on the basis of the compromise effected between the parties.

Vide order dated 16.12.2017, the parties were directed to appear before the trial Court for recording their statements.

It is worth noticing that this petition was originally filed by one accused namely Tejinder Kakkar, whereas the trial Court had recorded the statements of both the accused i.e. petitioner No.1 Tejinder Kakkar and one Pranav Kakkar on 08.01.2018. Therefore, the petitioner-Tejinder Kakkar

moved an application for impleading said Pranav Kakkar as petitioner No.2 and the same was allowed vide order dated 29.08.2018 and the parties were again directed to record their statements before the trial Court.

Learned counsel for the petitioners as well as learned State counsel have brought it to the notice of the Court that in fact there is no necessity to record the statements of the parties again as the only victim/complainant has suffered a statement on 08.01.2018 before the trial Court that he has compromised the matter with the accused persons, as per compromise Ex.C1. Since the compromise Ex.C1 is executed between the complainant and both the accused Tejinder Kakkar and Pranav Kakkar, the statement is deemed to be made for effecting compromise with both of them. Further, as per the joint statement of both the accused persons recorded on 08.01.2018 by the trial Court, they have also acknowledged that as per the compromise (Ex.C1), the dispute has been settled with the complainant.

The trial Court, while submitting the first report dated 12.01.2018 has though recorded its satisfaction that the complainant has no objection to the compromise and the said compromise is genuine and without any force or coercion. However, there are two accused persons in the FIR and the petition was filed by only petitioner No.1, the case was thereafter adjourned.

In view of the above, since the compromise is complete between both the parties, no further direction is required for re-recording the statements of the parties.

Counsel for the State, on instructions from ASI Ghanshyam

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 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 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.88 dated 27.02.2014, for offence punishable under Sections 420/406/506/120-B of IPC, registered at Police Station Sushant Lok, District Gurgaon and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners Tejinder Kakkar and Pranav Kakkar, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Gurgaon.

(ARVIND SINGH SANGWAN)
JUDGE

19.11.2018

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No