

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-48872-2017 (O&M)

Date of decision: 15.05.2018

Deepak Ansal and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Ravinder Malik, Advocate
for the petitioners.

Ms. Harpreet Kaur, AAG, Haryana.

Ms. Meenakshi Poswal, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

The petitioners have prayed for quashing of FIR No.143 dated 22.10.2017 for the offences punishable under Sections 420, 406, 120-B, 506 of the Indian Penal Code ('IPC' for short), registered at Police Station Sadar Jagadhri, District Yamuna Nagar (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of compromise/settlement dated 10.11.2017 (Annexure P-2) effected between the parties.

Brief facts of the case are that respondent No.2 had booked a plot measuring 287 square yards in the month of July, 2012 and an agreement between the parties was executed. Since the builder M/s Ansal Housing Constructions Limited failed to deliver the possession of the plot,

respondent No.2 approached the District Authorities and on the complaint made by respondent No.2, the Member Secretary-cum-District Town Planner, Yamuna Nagar got the aforesaid FIR registered against the petitioners who are directors and employees of M/s Ansal Housing Constructions Limited. Since the parties have entered into a compromise (Annexure P-2), vide order dated 12.01.2018, the trial Court was directed to record statements of the parties and submit a report in this regard.

The trial Court has submitted a report dated 03.02.2018 sent through the District and Sessions Judge, Yamuna Nagar, vide letter dated 05.02.2018. As per this report, respondent No.2-victim Ranjodh Singh has appeared before the trial Court and has supported the compromise, which was produced before the trial Court as Ex.CX. The complainant-respondent No.2 has further stated that the matter has been amicably settled and he made the statement without any threat, coercion or undue influence. Similar statement has been made by one Suresh Kendwal @ Suresh Kumar, authorized representative of the petitioners. The trial Court has also recorded the statement of ASI Satish Kumar, who stated that in the FIR, only one person is aggrieved i.e. respondent No.2 Ranjodh Singh, on whose asking, the FIR was got registered by the Member Secretary-cum-District Town Planner, Yamuna Nagar.

As per report of the trial Court, both the parties have entered into a valid compromise/settlement and the same is arrived at voluntarily without any pressure, threat or coercion and none of the accused person/petitioner has been declared a proclaimed offender or no other FIR is pending against them.

Reply by way of affidavit of Deputy Superintendent of Police (HQ), Yamuna Nagar has been filed in the Court today, in which the allegations levelled in the FIR are reiterated and only objection taken is that the Member Secretary-cum-District Town Planner, Yamuna Nagar is not arrayed as a party in the present petition.

After hearing learned counsel for the parties, I find that in fact the aggrieved person in this case is respondent No.2 Ranjodh Singh and only role of the Member Secretary-cum-District Town Planner, Yamuna Nagar is that on the representation of respondent No.2, he got the present FIR registered and therefore, in the present petition, only complainant-victim is arrayed as respondent No.2.

As per the Full Bench judgement 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.143 dated 22.10.2017 under Sections 420, 406, 120-B, 506 IPC, registered at Police Station Sadar Jagadhri, District Yamuna Nagar and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners, however, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Yamuna Nagar.

[ARVIND SINGH SANGWAN]
JUDGE

15.05.2018
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No