

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

CRM-M-5442-2018
Date of decision: 20.09.2018

Ranjit Kaur @ Ranjita and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. G. S. Bawa, Advocate
for the petitioners.

Mr. M. S. Nagra, AAG, Punjab.

Mr. Shiv Naresh Sharma, Advocate for
Mr. D. S. Nigha, Advocate
for respondent No. 2.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer in this petition, filed under Section 482 Cr.P.C., is for quashing the FIR No. 39 dated 30.03.2010, registered under Section 420 IPC at Police Station Raja Sansi, Amritsar (Annexure P-1) and all subsequent proceedings arising therefrom including orders dated 12.03.2013, 23.11.2016 and 06.07.2017, vide which the petitioners have been declared proclaimed persons (Annexures P-2 to P-4), on the basis of the compromise dated 03.11.2017 (Annexure P-5) entered into between the parties.

On 12.02.2018, the following order was passed:

“Counsel for the petitioners has submitted that on an earlier occasion also, there was a compromise between the parties and in the year 2014, the petitioners have filed CRM-M No.12682 of 2014 seeking quashing of the FIR, however, since the complainant was demanding more

amount on account of interest, the compromise could not matured and the said petition was dismissed. Counsel for the petitioners has further submitted that the impugned orders dated 12.03.2013, 23.11.2016 and 06.07.2017 (Annexures P2 to P4) declaring the petitioners as proclaimed offenders were passed without following the proper procedure as the petitioner No.1, 4 and 5 are the married ladies and residing at difference places and the proclamation was not made at their ordinary place of residence. It is further submitted that now the petitioners have settled the entire dispute with respondent No.2 and have cleared all the dues. It is further argued that the petitioners are ready to appear before the trial Court and apply for fresh bail and record their statements in pursuance to the compromise. Notice of motion. Ms. Samina Dhir, DAG, Punjab who is present in the Court accepts notice on behalf of the respondent No.1 while Mr. D.S. Nigha, Advocate has appeared on behalf of respondent No.2. Counsel for the petitioners is directed to supply a copy of paperbook to counsel for the State during course of the day. Counsel for respondent No.2 acknowledges that there is a legal and valid compromise between the parties. In view of the above, the petitioners are directed to appear before the trial Court within a period of 30 days from today and the trial Court will release them on interim bail subject to furnishing bail/surety bonds and on payment of costs of Rs.10,000/- each to be deposited with the District Legal Services Authority, Amritsar. The payment of costs shall be a pre-condition before accepting the bail/surety bonds of the petitioners. List again on 08.05.2018. The trial Court will also record the statements of the parties regarding the validity of the compromise and number of accused persons and submit its report on or before the next date

of hearing.”

Thereafter, the trial Court submitted a report dated 21.03.2018, as per which, though the complainant has acknowledged the compromise, however, statement of petitioner No. 1 Ranjit Kaur @ Ranjita and petitioner No. 3 Sandeep Singh @ Raja was not recorded as they have not appeared before the trial Court. Thereafter, vide order dated 08.05.2018, petitioner Nos. 1 and 3 were again directed to appear before the trial Court within a period of 30 days for getting their statement recorded.

In compliance with the aforesaid order, the trial Court has submitted another report dated 15.06.2018 to the effect that these petitioners have also appeared before it and got recorded their statement. The trial Court has also reported that statements of the petitioners and the complainant have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will.

Learned counsel for the petitioners further submitted that no other criminal case is pending between the parties.

Learned State counsel 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 learned 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 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 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.”

Keeping in view the fact that 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.

Since the petitioners have deposited ₹10,000/- each as costs with the District Legal Services Authority, Amritsar and respondent

No. 2/complainant has made a statement that the matter stands compromised, impugned orders dated 12.03.2013, 23.11.2016 and 06.07.2017, declaring the petitioners as proclaimed persons, are liable to be set aside.

In view of the above discussion, present petition is allowed and FIR No. 39 dated 30.03.2010, registered under Section 420 IPC at Police Station Raja Sansi, Amritsar (Annexure P-1) and all the subsequent proceedings arising therefrom including impugned orders dated 12.03.2013, 23.11.2016 and 06.07.2017, declaring the petitioners as proclaimed persons, are ordered to be quashed qua the petitioners herein.

September 20, 2018

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No