

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

Sr.No.251

CRM-M-6152-2018(O & M)

Date of Decision:19.11.2018

Shamsher Singh and others

....petitioners

Versus

State of Punjab and others

.....respondents

CORAM: HON'BLE MR.JUSTICE ARVIND SINGH SANGWAN

Present: Mr.Himanshu Monga, Advocate
for the petitioners

Mr.J.P.Ratra, DAG Punjab

Mr.Samrit Gill, Advocate for
Mr.R.K,Arya, Advocate
for respondents No.2 and 3

ARVIND SINGH SANGWAN, J.(ORAL) :

Prayer in this petition is for quashing of FIR No.19 dated 20.02.2016, for offence punishable under Sections 323/324/506/34 of the Indian Penal Code (in short 'IPC') and Section 308 IPC added later on, registered at Police Station Raja Sansi, District Amritsar Rural, on the basis of the compromise effected between the parties.

Vide order dated 15.02.2018, the parties were directed to appear before the trial Court for recording their statements.

A report dated 19.03.2018 along with the statements of the parties has been submitted by the Sub Divisional Judicial Magistrate, Ajnala.

As per the aforesaid report, the complainant Jodhbir singh as well as witness Jaskaran Singh have deposed before the trial Court on

15.03.2018 that they have entered into a compromise and the said compromise is voluntary and is effected with the intervention of the respectables in order to maintain peace and harmony between them. Similar is the statement recorded by the petitioner/accused-Shamsher Singh. The trial Court has also submitted a report that none of the petitioners is a proclaimed offender and the compromise has been effected between the parties voluntarily, without any undue influence and is genuine and the complainant has no objection if the aforesaid FIR is quashed.

Counsel for the State, on instructions from ASI Bikramjit Singh, assisted by learned counsel for respondents No.2 and 3, has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences. He however submits that during the investigation Section 308 IPC was also added in the aforesaid FIR.

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.19 dated 20.02.2016, for offence punishable under Sections 323/324/506/34 and Section 308 IPC also added later on, registered at Police Station Raja Sansi, District Amritsar Rural, and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners-Shamsher Singh, Sarabjit Singh and Harpal Singh, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Amritsar.

(ARVIND SINGH SANGWAN)
JUDGE

19.11.2018

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Whether speaking/reasoned
Whether reportable-

Yes/No.
Yes/No