IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.6714 of 2018 (O&M)
Decided on: 20.08.2018

Sahil Behal @ Manish Behal and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Jatinder Pal Singh Smagh, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Mr. Peeush Gagneja, Advocate
for respondents No.2 to 4.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.88 dated 22.09.2017, for offence punishable under Sections 307 read with Section 34 of the Indian Penal Code (in short 'IPC') registered at Police Station Mallanwala, District Ferozepur, on the basis of the compromise effected between the parties.

Vide order dated 16.02.2018, the parties were directed to appear before the trial Court/Illaqa Magistrate to get their statements recorded with regard to genuineness of the compromise.

A report dated 01.05.2018 has been submitted by the Judicial Magistrate Ist Class, Zira, wherein it has been reported that statements of the petitioners and respondents No.2 to 4 have been recorded and statements made by the parties in the Court reveal that

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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.

Counsel for the petitioners has submitted that no other criminal case is pending between the parties and none of the petitioner has been declared as proclaimed offender. It is further submitted that Section 307 IPC is not attracted in the present case as there is no such opinion of the Doctor that the injury sustained by the complainant was declared dangerous to life.

Counsel for the State assisted with counsel for the respondents No.2 to 4 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*

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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

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> *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.***"***

From the perusal of the statement of the parties as well as the paperbook, no medical opinion is available on record to show that the injuries were declared dangerous to life and, therefore, the offence under *Section 307 IPC is not made out* against the petitioners. 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 22.09.2017, for offence punishable under Sections 307 read with Section 34 IPC registered at Police Station Mallanwala, District Ferozepur and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners,

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subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Ferozepur.

(ARVIND SINGH SANGWAN)
JUDGE

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Whether speaking/reasoned Yes/No

Whether reportable: Yes/No

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