

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

CRM-M-7332-2018 (O&M)
Date of Decision: July 05, 2018

Sunil Dutt Sharma and another.....Petitioners

Versus

State of Punjab and another.....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Yogesh Goel, Advocate for the petitioners.
Mr. Joginder Paul Ratra, Deputy Advocate General, Punjab
Mr. Karan Vir Nanda, Advocate for respondent No.2

ARVIND SINGH SANGWAN, J.

Petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of complaint bearing SC Case No. 91/13.7.2016 filed under Sections 307/315/452/323/506 and 120-B read with Section 34 of the Indian Penal Code, 1860 (IPC for short), titled as Vandana vs. Raj Rani and Others (Annexure P1) as well as summoning orders dated 5.1.2016 (Annexure P2), 1.6.2017 (Annexure P4) and order dated 4.6.2016 (Annexure P3) declaring petitioner No.2 as proclaimed offender alongwith all consequential proceedings arising therefrom, on the basis of compromise (Annexure P5) .

Vide order dated 21.2.2018, a direction was given to the Illaqa Magistrate/trial Court to record the statements of the parties and submit a report regarding the genuineness of the compromise effected

between the parties and also to intimate whether any accused is declared as proclaimed offender.

In pursuance thereof, the trial Court has submitted a report on 10.5.2018 (forwarded by the District and Sessions Judge Kapurthala on 18.5.2018), after recording the statements of the parties. The trial Court has submitted that the attorney of the complainant-Ashwani Kumar and accused- Sunil Dutt himself and as a attorney of petitioner No.2-Ketan Sharma have appeared along with their respective counsel, who had identified them and got their statements recorded acknowledging that the compromise had been effected voluntarily, without any coercion or any undue influence. The trial Court has further submitted that there are four persons arrayed as accused in the present complaint, namely, Sunil Dutt, Ketan Sharma, Raj Rani and Surinder Singh. However, accused-Surinder Singh has been discharged and proceedings against accused Raj Rani had abated on account of her death and accused-Ketan Sharma i.e. Petitioner No.2 is declared as proclaimed offender.

Perusal of allegations in the FIR reveals that the present case squarely falls in the category of cases that can be quashed by the High Court, in exercise of its inherent power under Section 482 of the Code. Keeping in view authoritative enunciation of law laid down by Hon'ble the Supreme Court of India in “**Gian Singh vs State of Punjab and another**”, **2012(4) R.C.R. (Criminal) 543** and in the light of facts and circumstances of the present case, this Court is of the considered opinion that continuation of criminal proceedings would amount to abuse of process of law and it is expedient in the interest of justice that criminal proceedings are put to an

end.

As per the Full Bench judgement of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, 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 felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

The Apex Court in **Central Bureau of Investigation vs. Sadhu Ram Singla and others (2017) 5 Supreme Court Cases 350** has held as under:-

“Having carefully considered the singular facts and circumstances of the present case, and also the law relating to the continuance of criminal cases where the complainant and the accused had settled their differences and had arrived at an amicable arrangement, we see no reason to differ with the view taken in Manoj Sharma’s case (supra) and several decisions of this Court delivered thereafter with respect to the doctrine of judicial restraint. In concluding hereinabove, we are not unmindful of the view recorded in the decisions cited at the Bar that depending on the attendant facts, continuance of the criminal proceedings, after a compromise has been arrived at between the complainant and the accused, would amount to abuse of process of Court and an exercise in futility since the trial would be prolonged and ultimately, it may end in a decision which may be of no consequence to any of the parties.”

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.

Accordingly, this petition is allowed. Complaint bearing SC Case No. 91/13.2016 filed under Sections 307/315/452/323/506 and 120-B read with Section 34 IPC, titled as Vandana vs. Raj Rani and Others (Annexure P1) as well as summoning orders dated 5.1.2016 (Annexure P2), 1.6.2017 (Annexure P4) and order dated 4.6.2016 (Annexure P3) declaring petitioner No.2 as proclaimed absconder and all the consequential proceedings, arising therefrom, are ordered to be quashed subject to payment of costs in the sum of ₹ 25,000/- to be deposited in the Office of District Legal Services Authority, Kapurthala within 8 weeks from today, failing which this order shall stand recalled automatically without reference to the Court.

(ARVIND SINGH SANGWAN)
JUDGE

July 05, 2018
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No