

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

CRM-M No.3363 of 2019 (O&M)

Decided on: 28.03.2019

Harinder Singh

....Petitioner

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. R.S. Manhas, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Jagjeet Singh, Advocate for
respondents No.2 to 4.

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.9494 of 2019

Heard.

Allowed as prayed for.

Documents (Annexures P7 colly.) are taken on record
subject to all just exceptions.

CRM-M No.3363 of 2019

The petitioner has prayed for quashing of FIR No.32 dated 05.03.2005, for offence punishable under Sections 379, 427, 148, 149 of the Indian Penal Code (in short 'IPC') registered at Police Station Machhiwara, District Ludhiana (Annexure P1), on the basis of the compromise effected between the parties as well as for setting-aside the order dated 26.10.2018 (Annexure P5) vide which the petitioner was

declared as proclaimed offender.

Vide order dated 01.02.2019, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard to genuineness of the compromise, considering the fact that the petitioner has traveled abroad in search of better job options and in the meantime, he was declared as proclaimed offender.

The petitioner was directed to surrender before the trial Court and to pay the costs of Rs.1 lac, to be deposited in the Advocate General Punjab Welfare Fund (Punjab State Co-operative Bank Limited, Sector 8, Chandigarh, Account No.000434001100312, IFSC Code – UTIB0PSCB01).

The trial Court has submitted a report dated 07.03.2019, that the petitioner has appeared before the Court along with the complainants namely Ranjit Kaur, Jagpreet Singh and Jaswinder Singh. All the 03 complainants have made a statement that they have no objection, if the aforesaid FIR and subsequent proceedings arising therefrom are quashed against the petitioner.

Similar statement was made by the petitioner and thereafter, the trial Court has formed an opinion that the compromise is genuine, voluntary and out of free will of the parties.

Counsel for the petitioner has submitted that the petitioner has appeared before the trial Court and has complied with the order dated 01.02.2019 passed by this Court.

Counsel for the petitioner has additionally argued that even otherwise, 07 of the co-accused of the petitioner, who have faced the full length trial, were convicted by the trial Court vide judgment dated

10.01.2012, however, in an appeal filed by them, they were acquitted by the Lower Appellate Court vide judgment dated 22.11.2012 and the said judgment becomes final and no further appeal against the said order was filed by the complainant party.

Counsel for the State assisted with counsel for 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.

After perusing the report submitted by the trial Court, this Court is of the opinion that the matter has been amicably settled between the petitioner and respondents No.2 to 4/complainants, who have decided to bury their dispute and live in peace.

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.”

Considering the fact that the petitioner has surrendered before the trial Court, deposited the costs of Rs.1 lac and there is an amicable settlement between the parties and the complainants/respondents No.2 to 4, who have appeared before the trial Court and made a statement that the compromise is genuine, voluntary and out of the free will of the parties, 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, the order dated 26.10.2018 (Annexure P5) is set-aside and FIR No.32 dated 05.03.2005, for offence punishable under Sections 379, 427, 148, 149 IPC registered at Police Station Machhiwara, District Ludhiana and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioner.

Since the main petition i.e. CRM-M No.3363 of 2019, has been allowed, the remaining pending application(s), if any, is/are dismissed being not pressed.

(ARVIND SINGH SANGWAN)
JUDGE

28.03.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No