

262/1 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10203-2019

Date of decision : August 30, 2019

Hardeep Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Baljeet Singh Kathuria, Advocate
for the petitioners.

Mr. Jagmohan Ghumman, DAG, Punjab.

Mr. J.S. Thakur, Advocate
for respondents No.2 to 6.

ARVIND SINGH SANGWAN, J. (Oral)

Prayer made in the present petition is for quashing of summoning order dated 13.6.2016 passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib on the basis of compromise effected between the parties.

Vide order dated 5.3.2019, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit information regarding whether there is any other accused other than the petitioners, arrayed in this petition and whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

A report dated 14.3.2019 has been submitted by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, wherein it has been reported that there is no other accused than the petitioners arrayed in the petition and it appears that two other affected persons have not been arrayed as respondents in the petition. It is also mentioned that the present complaint is connected with cross FIR No.55 dated 25.5.2015 under Sections 452/450/324/323/326/307/507/148/149 IPC, registered at Police Station Sadar Sri Muktsar Sahib, in which the parties have entered into a compromise.

Learned counsel for the petitioners submits that, in fact, a scuffle took place between young students on account of minor issue and they entered into a compromise. He further submits that there is no specific medical opinion of the doctor and, therefore, *prima facie* Section 307 IPC is not made out. He also submits that no other criminal case is pending between the parties and the petitioners are not proclaimed offenders.

Learned State counsel, on instructions from the Investigating Officer, 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.”

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 the above discussion, present petition is allowed and the summoning order dated 13.6.2016 passed by the learned Additional Chief Judicial Magistrate, Sri Muktsar Sahib be quashed, subject to payment of costs of Rs.3000/- to be deposited with the District Legal Services Authority, Sri Muktsar Sahib.

August 30, 2019
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(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No