

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

1. CRM-M-16836-2018

Daljit Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

2. CRM-M-20201-2018

Daljit Singh

...Petitioner

Versus

State of Punjab

...Respondent

Date of decision: 04.02.2019

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- None for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Aman Mathur, Advocate
for respondent Nos. 2 and 3/complainant.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions as they arise out of the version and its cross version.

In the first petition, the petitioner prays for quashing of the cross version registered in FIR No. 209 dated 20.05.2009, under Section 323, 324, 148 and 149 of the IPC, registered at Police Station Sadar, Patiala along with all consequential proceedings arising therefrom, on the basis of

compromise dated 01.03.2018 (Annexure P-5), entered into between the parties and in the second petition, the petitioner prays for quashing of order dated 11.07.2011, vide which, he was declared a proclaimed offender in the cross version of the aforesaid FIR.

Vide order dated 28.09.2018, the petitioner was directed to appear before the trial Court and the trial Court was directed to release him on interim bail subject to his furnishing bail/surety bonds and on payment of ₹2 Lakh to be deposited in the Govt. Treasury under a head to be nominated by the trial Court.

The parties were also directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR.

Later on, the petitioner moved an application bearing CRM-39919-2018 praying that he may be permitted to appear before the trial Court through his power of attorney/father as the petitioner is an NRI and is residing in United States of America. The said application was allowed and the permission was granted to petitioner to appear through his power of attorney/father, vide order dated 19.11.2018.

In pursuance to the aforesaid direction, a report dated 08.01.2019 has been submitted by the Additional Chief Judicial Magistrate, Patiala, wherein it has been reported that injured/complainants Ranjit Singh and Harbans Kaur (respondent Nos. 2 and 3) have put in appearance before the trial Court on 28.11.2018 and have suffered a joint statement that they

have entered into compromise with the accused persons and all the other accused except the petitioner herein stand acquitted by the trial Court on 21.02.2012 and subsequently they have entered into compromise on 01.03.2018 with the petitioner through his father and next friend Mohinder Singh and they have no objection if the cross version registered in the aforesaid FIR is quashed qua the petitioner. Similar statement has been made by the father of the petitioner who is his power of attorney. It was also stated by him that cost of ₹2 Lakh already stands deposited in the Govt. Treasury. Accordingly, the trial Court has submitted the report that parties have acknowledged the compromise and as per the statement of the Investigating Officer ASI Karnail Singh, out of five accused, only petitioner was declared a proclaimed offender and the other accused stand acquitted by the trial Court. It is also reported by the trial Court that petitioner has deposited the cost of Rs. 2 Lakh in the Govt. Treasury on 26.11.2018 and has attached a treasury challan with the report.

Learned State counsel 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.”

The Division Bench of this Court in the case of ***Sudo Mandal @ Diwarak Mandal vs State of Punjab 2011(2) RCR (Criminal) 453*** has held that criminal proceedings including the order declaring a person as proclaimed offender can be quashed when there is a compromise between 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.

In view of the above discussion, these petitions are allowed and the cross version registered in FIR No. 209 dated 20.05.2009, under Section 323, 324, 148 and 149 of the IPC, registered at Police Station Sadar, Patiala and all the subsequent proceedings arising therefrom including the order dated 11.07.2011, declaring the petitioner as a proclaimed offender, are ordered to be quashed qua the petitioner herein.

A photocopy of this order be placed on the file of other connected case.

February 04, 2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No