

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

**CRM-M-18242-2017
Date of decision: 03.04.2019**

Ashok Kumar Nambardar and others

...Petitioners

Versus

Ram Pal

...Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Ms. Rajni Maurya, Advocate for
Mr. Naveen Batra, Advocate
for the petitioner.

Mr. Vijay Lath, Advocate
for the respondent.

ARVIND SINGH SANGWAN, J. (Oral)

By way of the present petition, filed under Section 482 Cr.P.C., the petitioners have prayed for quashing of Complaint No. 536 dated 19.04.2011, filed under Sections 419, 420, 423, 426, 463, 465, 467, 468, 471 and 120-B of the IPC (Annexure P-1) along with all the subsequent proceedings arising therefrom including summoning order dated 24.03.2017 passed by the JMIC, Anandpur Sahib (Annexure P-3), on the basis of the compromise dated 17.05.2014 entered into between the parties before the Lok Adalat.

Learned counsel for the petitioner has submitted that the dispute is arising out of an agreement to sell dated 17.09.2006 and on an earlier occasion, the matter was compromised on 17.05.2014 before the Lok Adalat, however, the respondent/complainant did not own the compromise.

Vide order dated 19.12.2018, the matter was again referred to the

Mediation and Conciliation Centre of this Court for recording of the statement of the parties with regard to genuineness of the compromise and before the Mediator, a settlement/agreement dated 26.02.2019 has been arrived at between the parties, the operative part of the same reads as under:

“7. The following settlement has been arrived at between the parties hereto:

a) That today Petitioner No.3 namely Asvinder Singh come in person and represent the other petitioners being part of the family and the second party has no objection if he represent and give statement and further entered into present settlement on behalf of all the petitioners.

b) That both the parties have agreed that the Civil cases filed by the petitioners against the respondent has already been withdrawn and no case is pending between the parties now.

c) That the second party has filed the Criminal Complaint against the first party before the Ld. JMIC, Anandpur Sahib District Ropar as stated above and second party specifically mentioned that they want to honour the compromise which took place before the Lok Adalat and the copy of the same is Annexure P-2.

d) That the second party has agreed the above stated criminal complaint is fixed for tomorrow i.e 27.02.2019 before the Ld. JMIC, Anandpur Sahib District Ropar. The second party has agreed that tomorrow he will appear before the Ld. JMIC, Anandpur Sahib and specifically make a statement for the withdrawal of the same.

e) That it is admitted case of both the parties that no case (Civil or Criminal) except the present complaint in which quashing is filed before the Hon'ble Court.”

The aforesaid settlement/agreement is signed by the complainant/respondent and petitioner No. 3 on behalf of all the

petitioners along with their respective counsels. Even today, the parties have represented that there is a valid compromise between the parties and the complainant/respondent has no objection if the present complaint along with all the subsequent proceedings is quashed qua the petitioners.

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 Complaint No. 536 dated 19.04.2011, filed under Sections 419, 420, 423, 426, 463, 465, 467, 468, 471 and 120-B of the IPC (Annexure P-1) along with all the subsequent proceedings arising therefrom including summoning order dated 24.03.2017 passed by the JMIC, Anandpur Sahib (Annexure P-3), are ordered to be quashed qua the petitioners herein.

However, the parties shall remain bound by the terms and conditions of the aforesaid settlement/agreement.

03.04.2019

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No