

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

**CRM-M-16265-2019 (O&M)
Date of decision: 17.07.2019**

Mohit Goel and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Karan Pathak, Advocate for
Mr. Gautam Dutt, Advocate
for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Padamkant Dwivedi, Advocate
for respondent No. 2.

ARVIND SINGH SANGWAN, J. (Oral)

CRM-21070-2019

Prayer in this application is for preponing the date of the main case i.e. fixed for 22.08.2019.

For the reasons stated in the application, the same is allowed. Let the main case be taken up today itself.

CRM-M-16265-2019

By way of the present petition, filed under Section 482 Cr.P.C., the petitioners have prayed for quashing of FIR No. 0069 dated 22.04.2017, under Sections 420 and 120-B of the IPC, registered at Police Station Doraha, District Khanna (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of the compromise entered into between the parties.

In pursuance to issuance of notice of motion, respondent No. 2

appeared and thereafter, the case was referred to Mediation and Conciliation Centre of this Court, wherein the parties have arrived at a settlement/agreement dated 04.07.2019. The terms and conditions thereof are as under:

- i) The first party as a full and final settlement of the dispute with second party has agreed to pay an amount of Rs.4,80,000/-(Four Lacs Eighty Thousand Only). Besides the payment of above Rs.4,80,000/-(Four Lacs Eighty Thousand Only) the second party shall not claim any other amount from the first party or any other official/ director of the company of the first party.
- ii) That the first party has agreed to pay Rs.1,80,000/-(One Lacs Eighty Thousand Only) out of the abovesaid amount of Rs.4,80,000/-(Four Lacs Eighty Thousand Only) today through Net Banking.
- iii) That the balanced amount of Rs.3,00,000/-(Three Lacs Only) shall be paid by the first party to the second party through demand draft on or before the next date of hearing before the Hon'ble High Court when the case shall be taken up for hearing.
- iv) That the second party has agreed to withdraw the proceedings under Section 138 of the NIA Act which is presently pending before JMJC, Payal. District Ludhiana within a period of one month or on the next date of its hearing.
- v) That the first party shall make a statement regarding the factum of present settlement and its compliance before the Hon'ble Court and pray before the Hon'ble High Court for quashing the FIR No.0069 dated 22.04.2017, under Sections 420/120 IPC, registered at police Station Doraha, District Khanna, by the second party and the

second party shall record its no objection for quashing of the same and make all other efforts including submitting/providing of any affidavit etc for quashing of the abovesaid FIR. In case the Hon'ble High Court directs the recording the statements before the Ld.Trial Court, the second party shall extend all the support including recording his statement before the Ld. Trial Court.

In support of the statement, learned counsel for the petitioners has handed over a demand draft of Rs. 3 Lakh favouring the complainant/Ahuja Enterprises in Court today. A copy of the same is retained on the file.

Complainant Pawan Kumar, who is present in Court, has also filed an affidavit acknowledging that he has received the aforesaid demand draft of Rs. 3 Lakh and has no objection if the present FIR is quashed in terms of the settlement/agreement arrived at between them before the Mediator on 04.07.2019.

Learned counsel for the petitioners further submitted that no other criminal case is pending between the parties and none of the petitioners is a proclaimed offender.

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 FIR No. 0069 dated 22.04.2017, under Sections 420 and 120-B of the IPC, registered at Police Station Doraha, District Khanna (Annexure P-1) and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners herein.

17.07.2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No