

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

**CRM-M-38022-2016
Date of decision: 18.01.2019**

Saleem and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. B. S. Tewatia, Advocate
for the petitioners.

Mr. Arun Kumar, AAG, Haryana.

Ms. Suman Bishnoi, Advocate for
Mr. Ashok Kaushik, Advocate
for respondent No. 2.

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 FIR No. 834 dated 06.10.2016, under Sections 147, 148, 149, 323, 307 of the IPC and Sections 25, 54, 59 of the Arms Act, registered at Police Station Camp Palwal, District Palwal (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of the compromise (Annexure P-2) entered into between the parties.

Learned counsel for the petitioners submits that since as per reply filed by the DSP, Hq., Palwal, petitioner No. 4 Gabbar Kabadi was found innocent during the course of investigation, he may be permitted to withdraw the petition qua petitioner No. 4.

Learned State counsel, at the very outset, submits that petitioner No. 1 Saleem also stands acquitted by the Additional Sessions Judge, Palwal, vide judgment dated 11.04.2017, hence, this petition qua petitioner No. 1 is

not maintainable.

Faced with this, learned counsel for the petitioners submits that this petition may be dismissed as withdrawn qua petitioner No. 1 as well.

In view of above, this petition is dismissed as withdrawn qua petitioner Nos. 1 and 4.

In pursuance to the order dated 24.10.2016, petitioner Nos. 2 and 3 have appeared before the trial Court along with complainant and their statements have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will, vide report dated 27.02.2017, submitted by the Chief Judicial Magistrate, Palwal.

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 counsel for the petitioners further submits that no offence under Section 307 IPC is made out against petitioner Nos. 2 and 3 in view of the fact that one of the similarly situated co-accused, petitioner No. 1 Saleem, has already been acquitted by the Additional Sessions Judge, Palwal and another co-accused, petitioner No. 4 Gabbar Kabadi was found innocent during the course of investigation itself.

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. 834 dated 06.10.2016, under Sections 147, 148, 149, 323, 307 of the IPC and Sections 25, 54, 59 of the Arms Act, registered at Police Station Camp Palwal, District Palwal (Annexure P-1) and all the subsequent proceedings arising therefrom are ordered to be quashed qua petitioner Nos. 2 and 3 herein, however, subject to payment of costs of ₹5,000/- to be deposited with the District Legal Services Authority, Palwal.

January 18, 2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No