

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

1. CRM-M-46388-2017

Malkiat Singh @ Billi

...Petitioner

Versus

State of Punjab and others

...Respondents

2. CRM-M-21651-2018

Gurinder Singh @ Gagan

...Petitioner

Versus

State of Punjab and others

...Respondents

Date of decision: 16.01.2019

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

Present:- Mr. Sandeep Sharma, Advocate
for the petitioner in CRM-M-46388-2017.

Mr. Sandeep Arora, Advocate
for the petitioner in CRM-M-21651-2018.

Mr. Sidakmeet Sandhu, DAG, Punjab.

Mr. Rajesh Bhateja, Advocate
for respondent Nos. 2 and 3 in both petitions.

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.

These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 258 dated 14.11.2016, under Sections 307, 323, 324, 506, 148 and 149 of the IPC and Sections 25, 27 of the Arms Act, 1959, registered at Police Station Division No. 7, Police Commissionerate Jalandhar, District Jalandhar, along with all the consequential proceedings arising therefrom, on the basis of compromise entered into between the parties.

Vide order dated 18.07.2018 passed in CRM-M-46388-2017, 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 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.

A report dated 20.08.2018 has been submitted by the Additional Sessions Judge, Jalandhar, wherein it has been reported that statement of both the petitioners and complainants 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. The trial Court has also reported the statement of Investigating Officer ASI Kuldeep Singh, who has stated that the petitioners have been declared proclaimed offenders in this case, vide order dated 22.02.2017.

Learned counsel for the petitioners submit that as per the

allegations in the FIR, petitioner Malkiat Singh @ Billi was not present at the spot and in this regard, the complainant has suffered statement before the Magistrate on 18.11.2016 and thereafter, the compromise has been effected between the petitioners and complainant.

It is further submitted that Section 307 IPC has been invoked in this case on account of a fire arm injury sustained by injured Rishav on his foot, however, there is no such opinion that this injury was declared dangerous to life.

Learned State counsel, on instructions from ASI Gurnam Singh, has not disputed the fact that there is no specific opinion that the injury sustained by injured Rishav was declared dangerous to life and, therefore, it being a grievous injury, the offence would fall under Section 326 IPC and 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, these petitions are allowed and FIR No. 258 dated 14.11.2016, under Sections 307, 323, 324, 506, 148 and 149 of the IPC and Sections 25, 27 of the Arms Act, 1959, registered at Police Station Division No. 7, Police Commissionerate Jalandhar, District Jalandhar and all the subsequent proceedings arising therefrom including order dated 22.02.2017, declaring the petitioners as proclaimed offenders, are ordered to be quashed qua both the petitioners herein, however, subject to payment of costs of ₹25,000/- each to be deposited by both petitioners with the District

Legal Services Authority, Jalandhar.

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

January 16, 2019

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No