

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

**CRM-M-23144-2019
Date of decision: 20.05.2019**

Pardeep Sharma

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Ranjivan Singh, Advocate and
Ms. Kanika Toor, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Diwan S. Adlakha, Advocate
for respondent No. 2/complainant.

ARVIND SINGH SANGWAN, J. (Oral)

By way of the present petition, filed under Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No. 122 dated 21.12.2017, registered under Sections 406 and 420 of the Indian Penal Code and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 (as amended) at Police Station Kotwali Nabha, District Patiala (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of the compromise/settlement agreement dated 26.07.2018 (Annexure P-3), entered into between the parties.

Notice of motion.

Mr. Joginder Pal Ratra, DAG, Punjab and Mr. Diwan S. Adlakha, who are present in Court, accept notice on behalf of the respondent-State and respondent No. 2/complainant, respectively.

The petitioner has also filed a petition under Section 438 Cr.P.C.,

i.e. CRM-M-500-2018, seeking grant of anticipatory bail and in pursuance to the notice of motion order in that case, the petitioner has paid the amount to respondent No. 2/complainant in installments on the various dates as noticed in the previous orders passed in the said petition. Vide order dated 15.01.2018 passed in aforesaid petition, the petitioner was granted interim anticipatory bail and he has joined the investigation. Since the parties have amicably settled their dispute, the case was referred to Mediation and Conciliation Centre of this Court for recording of the statement of the petitioner as well as respondent No. 2 Kusam Rani. The Mediator has recorded the statement of the parties and a settlement agreement dated 26.07.2018 has been reduced in writing. The terms and conditions of the said settlement agreement are as under:

“4. In pursuance to the said settlement the present quashing petition has been filed by petitioner-Pardeep Sharma. The terms of the compromise are as follows:-

- i) The matter was settled for an amount of Rs.20 Lakhs (Rupees Twenty Lakhs only), out of which an amount of Rs. 12,75,000/-(Rupees Twelve Lakhs Seventy Five Thousand only) was paid by petitioner-Pardeep Sharma to respondent No.2-Kusum Rani by 13.03.2019.
- ii) An amount of Rs. 3,25,000/- (Rupees Three Lakh Twenty Five Thousand only) was admittedly paid vide draft No.59945 dated 14.05.2019 (Annexure P-4).
- iii) Remaining amount of Rs.4 Lakh (Rupees Four Lakh only) has been paid in front of the undersigned mediator vide draft no.058219 dated 18.05.2019. The draft in original has been handed over to Kusum Rani by Pardeep Sharma in front of the undersigned mediator and their respective counsels. The receipt on the photocopy of the demand draft is attached (Annexure R-1).
- iv) The parties have agreed that the compromise dated

26.07.2018 (Annexure P-3) has been duly complied with. It is needless of mention that respondent No.2-Kusum Rani will act upon the settlement (Annexure P-4) and will withdraw her complaint No.COMA/416/2017 under Section 138 of Negotiable Instruments Act, 1881 pending for 27.05.2019 before the learned Trial Court at Nabha as filed against the petitioner.”

Additionally, a short reply, by way of affidavit of respondent No. 2/complainant, is also filed in Court today which is taken on record.

Learned State counsel, in view of the settlement agreement arrived at between the parties before the Mediator, has not disputed the factual position.

I have heard learned counsel for the parties.

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 amicably settled their dispute and they have appeared before the Mediator where the terms and conditions have been settled and they have undertaken to be bound by the same, no useful purpose would be served in allowing the criminal proceedings to continue.

Therefore, in view of the above discussion, present petition is allowed and FIR No. 122 dated 21.12.2017, registered under Sections 406 and 420 of the Indian Penal Code and Section 13 of the Punjab Prevention of Human Smuggling Act, 2012 (as amended) at Police Station Kotwali Nabha, District Patiala (Annexure P-1) and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

The parties shall remain bound by the terms and conditions of the settlement and the complainant will withdraw the complaint filed under Section 138 of the N. I. Act.

20.05.2019
Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No