

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

**CRM-M-51045-2018  
Date of decision: 11.03.2018**

**Jatinder Singh**

**...Petitioner**

**Versus**

**State of Punjab and others**

**...Respondents**

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

Present:- Mr. Gurpreet Singh Gurna, Advocate for  
Mr. H. S. Dhindsa, Advocate  
for the petitioner.

Mr. M. S. Nagra, AAG, Punjab.

Mr. Baljeet S. Nain, Advocate for  
Mr. Ramandeep Singh, Advocate  
for respondent No. 4.

**ARVIND SINGH SANGWAN, J. (Oral)**

Prayer in this petition is for quashing of FIR No. 142 dated 10.10.2013 under Sections 420 & 406 IPC, registered at Police Station Shimlapuri, District Ludhiana (Annexure P-1) and all the subsequent proceedings arising therefrom, on the basis of compromise as well as the order dated 15.07.2014, passed by the trial Court, vide which the petitioner was declared a proclaimed offender.

On 20.11.2018, while issuing notice of motion, the following order was passed:

“Learned counsel for the petitioner submits that on the date of registration of FIR and subsequent thereto, the petitioner was not in India and was residing abroad and therefore, the procedure adopted by the trial Court under Sections 82/83 Cr.P.C., for declaring him a proclaimed offender, by not serving the petitioner by way of proper

service, is not correct. It is further submitted that three co-accused of the petitioner namely Amrik Singh, Manjit Singh and Surinder Kaur, who faced the full length trial, were acquitted by the trial Court, vide judgment dated 27.09.2017 and thereafter, when the complainant filed an appeal, the matter was compromised and the appeal was dismissed as withdrawn from the Court of Additional Sessions Judge vide order dated 07.06.2018. Learned counsel further submits that even the petitioner has settled the dispute with the complainant and he is ready to surrender before the trial Court and apply for regular bail. Notice of motion for 11.03.2019. At this stage, Mr. Ramandeep Singh, Advocate has appeared on behalf of respondent No.4-complainant. In the meantime, petitioner is directed to appear before the trial Court within a period of 30 days from today and the trial Court will release him on interim bail subject to furnishing his bail/surety bonds and on payment of costs of Rs.50,000/- to be deposited in the Govt. Treasury under a head to be nominated by the trial Court. Thereafter, the trial Court/Illaq Magistrate will record statements of the parties with regard to compromise/settlement and submit a report on or before the next date of hearing containing the following information: - 1. Number of persons arrayed as accused in FIR, 2. Whether any accused is proclaimed offender, and 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence. 4. Whether the accused persons are involved in any other FIR or not. 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.”

A report dated 07.03.2019 has been submitted by the Judicial Magistrate First Class, Ludhiana, wherein it has been reported that statements

of the petitioner and respondent No. 4/complainant 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. With regard to pendency of any proceeding regarding declaring the petitioner as a proclaimed offender or any other case pending against him, it is reported that despite issuance of repeated notices to the Investigating Officer, he has not turned up, therefore, his statement could not be recorded.

Learned counsel for the petitioner submits that no other criminal case is pending between the parties. It is further submitted that the petitioner, in pursuance to the order dated 20.11.2018, has already deposited the cost of Rs. 50,000/- and has placed on record a copy of receipt challan in this regard.

Learned State counsel, on instructions from ASI Rajinder Pal, has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences and has submitted that petitioner is not involved in any other case.

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. 142 dated 10.10.2013 under Sections 420 & 406 IPC, registered at Police Station Shimlapuri, District Ludhiana (Annexure P-1) and all the

subsequent proceedings arising therefrom as well as the order dated 15.07.2014, passed by the trial Court, vide which the petitioner was declared a proclaimed offende are ordered to be quashed qua the petitioner herein.

March 11, 2019

*Waseem Ansari*

(ARVIND SINGH SANGWAN)  
JUDGE

*Whether speaking/reasoned*  
*Whether reportable*

*Yes/No*  
*Yes/No*