

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

CRM-M No.52357 of 2018 (O&M)

Decided on: 07.03.2019

Rupinder Singh Sarsua

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. K.S. Brar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. G.S. Simble, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioner has prayed for quashing of FIR No.153 dated 26.07.2017, for offence punishable under Sections 419, 420, 467 of the Indian Penal Code (in short 'IPC') registered at Police Station Civil Lines, Bathinda, District Bathinda, on the basis of the compromise effected between the parties.

Vide order dated 28.11.2018, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard to genuineness of the compromise.

A report dated 26.12.2018 has been submitted by the Judicial Magistrate Ist Class, Bathinda, which reads as under:-

“The case CRM-M No.52357 of 2018 titled as Rupinder Singh Sarsua vs State of Punjab & Anr., FIR No.153 dated 26.7.2017 U/s 419/420/467 IPC, Police Station Civil Lines, Bathinda, registered on the complaint

of complainant Janak Singh aged about 63 years S/o Santa Singh R/o H. No.MCB-Z2-10847, Parinda Road, Street No.23, Guru Teg Bahadur Nagar Bathinda. The duly report is as under:-

1. As per FIR No.153 dated 26.7.2017, there is one accused namely Rupinder Singh S/o Janak Singh c/o E-school Main, Ajit Road, Near Street No.8B Bathinda. Accused has not been declared P.O. in this case. But Janak Singh S/o Santa Singh R/o H. No. MCB-Z2-10847, Parinda Road, Street No.23, Guru Teg Bahadur Nagar, Bathinda has also lodged another FIR No.0227 dated 14.11.2017 u/s 379, 420, 467, 468, 471 IPC against accused and accused has filed a writ petition for quashing of the same FIR which is 0227 of year 2017 PS Civil Line, Bathinda. Accused appeared before the court of the undersigned and got recorded his following statement in this case:-

2. The name of the complainant is Janak Singh and he stated that he has lodged an FIR No.0153 dated 26.07.2017 u/s 419, 420, 467 IPC against his son Rupinder Singh and Jaswinder Singh in PS Civil Line, Bathinda and a compromise has been effected between him, Rupinder Singh and Jaswinder Singh. As per compromise (Ex.C1) Rupinder Singh will buy one house for his mother Rashpal Kaur and he will give her Rs.50,000/- per month through banking channel. As per compromise Ex.C1 both the parties will not interfere in each other's business and properties. As per this compromise FIR No.0153 may be quashed. Complainant has also lodged one another FIR No.0227 dated 14.11.2017 u/s 379, 420, 467, 468, 471 IPC against his son Rupinder Singh and Rupinder Singh has filed a writ petition for quashing of the same FIR which is 0227 of year 2017 PS Civil Line Bathinda, as per compromise Ex.C1

and his affidavit Ex. C2. He has no objection if the above stated FIR be quashed. He has given his statement voluntarily and without any pressure. Accused Rupinder Singh stated that Janak Singh his father lodged an FIR No.0153 dated 26.07.2017 u/s 419 420, 467 IPC against him and Jaswinder Singh in PS Civil Line, Bathinda and a compromise has been effected between complainant and him and Jaswinder Singh (co-accused). As per compromise (Ex.C1) affidavit, he will buy one house to his mother Rashpal Kaur and he will give her Rs.50,000/- per month through banking channel. As per, compromise Ex.C1 both the parties will not interfere in each other's business and properties. As per this compromise FIR No.0153 may be quashed. Another co-accused Jaswinder Singh s/o Kewal Singh r/o VPO Jhumba, Bathinda stated that Janak Singh s/o Santa Singh has lodged one FIR No.0153 dated 26.07.2017 against his son Rupinder Singh and against unknown person after that concerned police has involved him in this FIR vide DDR No.28 dated 28.07.2017 u/s 419, 420, 467 IPC PS Civil Line, Bathinda, a compromise has been effected between Janak Singh and his son Rupinder Singh and him which is Ex.C1. Now, Janak Singh and Rupinder Singh have filed another writ petition CRM-M No.52357 for quashing of FIR No.0153 dated 26.07.2017 u/s 419, 420, 467 IPC PS Civil Line. He has no objection if the FIR No.0153 dated 26.07.2017 u/s 419, 420, 467 IPC PS Civil Line be quashed. Further Rashpal Kaur Wo Janak Singh aged about 61 years R/o Parinda Road, Street No. 23, Guru Teg Bahadur Nagar H.No.MCB-Z2-10847, Bathinda, stated that her husband Janak Singh has got lodged an FIR No.0153 dated 26.07.2017 u/s 419, 420, 467 IPC against his son Rupinder Singh and co-accused Jaswinder Singh in PS Civil Line, Bathinda and a compromise has been effected

between her, Rupinder Singh, Jaswinder Singh and complainant Janak Singh. As per compromise (Ex.C1) Rupinder Singh will buy one house for her and he will give her Rs.50,000/- per month through banking channel. As per, compromise Ex.C1 both the parties will not interfere in each other's business and properties. As per this compromise FIR No.0153 may be quashed. Her husband has also lodged one another FIR No.0227 dated 14.11.2017 u/s 379, 420, 467, 468, 471 IPC against her son Rupinder Singh and Rupinder Singh has filed a writ petition for quashing of the same FIR which is 0227 of year 2017 PS Civil Line, Banda, as per compromise Ex.C1 and affidavit Ex.C2 which was given by her husband Janak Singh. She has also signed compromise deed Ex.C1 and has seen the same and identify her signatures on the Ex.C1. She has no objection if the above stated FIR be quashed. She has given her statement voluntarily and without any pressure. ASI Jagsir Singh No.175. BTI, PS City Rampura, District Bathinda stated that on dated 26.07.2017 he was posted at PS Civil Line, Bathinda and now posted at City Rampura, District Bathinda. On the complaint of Janak Singh (complainant), he has lodged FIR No.153 dated 26.07.2017, U/s 419/420/467 of IPC, PS Civil Line, Bathinda. One complaint moved by Janak Singh against his son Rupinder Singh and co-accused Jaswinder Singh. In the said FIR Janak Singh and Rashpal Kaur were complainant, Rupinder Singh and Jaswinder Singh were accused. Now, compromise has been effected between the parties. Complainant Janak Singh is father of Rupinder Singh, there was some misunderstandings between the parties. Now, matter has been resolved between son, father, mother and other family members.

3. From the statements of the complainant, accused and Investigating officer, compromise appears to be

genuine, voluntarily, out of free will and without any coercion or undue influence.

Report is submitted accordingly.

*Pronounced in open Court
15.12.2018*

*(Reeta Hans), PCS,
Judicial Magistrate Ist Class,
Bathinda.”*

Counsel for the petitioner has submitted that no other criminal case is pending between the parties and the petitioner has not been declared as proclaimed offender.

Counsel for the State assisted with counsel for the respondent No.2 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 counsel for the parties and perused the case file.

After perusing the report submitted by the trial Court, this Court is of the opinion that the matter has been amicably settled between the petitioner and respondent/victim, who have decided to bury their dispute and live in peace.

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 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 the Apex Court in the case of **“Gian Singh vs**

State of Punjab and another”, 2012 (4) RCR (Criminal) 543, has held as under:-

“57. 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 petitioner is the son of respondent No.2/complainant and as a part of the compromise, he has given an undertaking that he will buy a house for his mother – Rashpal Kaur and will pay Rs.50,000/- per month through a banking channel, the statement made by the petitioner before the trial Court, as noticed above in the report, shall remain binding between the parties and in case, in future, the petitioner – Rupinder Singh Sarsua, fail to abide by the undertaking given by him before the trial Court, it will be open for the complainant – Janak Singh as well as his wife Rashpal Kaur, to enforce the same through process of the law.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.153 dated 26.07.2017, for offence punishable under Sections 419, 420, 467 IPC registered at Police Station Civil Lines, Bathinda, District Bathinda and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioner, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Bathinda.

(ARVIND SINGH SANGWAN)
JUDGE

07.03.2019
yakub

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No