

CRM-M-52904-2018

Date of decision: March 06,, 2019

Bhupinder Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rakesh Kumar, Advocate
for the petitioners.

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

ARVIND SINGH SANGWAN J. (Oral)

Prayer in this petition is for quashing of FIR No.58 dated 21.7.2013 under Sections 323, 341, 506, 34 IPC, registered at Police Station Fattu DHINGA, District Kapurthala and all the subsequent proceedings arising therefrom, on the basis of the compromise.

Vide order dated 30.11.2018, the parties were directed to appear before the trial Court and record their statements with regard to the compromise. The trial Court has submitted its report and as per the same, only the petitioners are the accused persons. They have effected a compromise with the complainant/sole victim-Pardeep Kumar. The trial Court recorded the statement of the complainant/victim as well as of the petitioners, who have stated that they have no grudge against each other and they want to live peacefully to avoid any further untoward incident in their life.

Counsel for the petitioner has relied upon the order dated 14.11.2018 passed in CRM-M-3992 of 2018 vide which the cross complaint

filed by the petitioners was quashed by filing the petition by the accused person in the said complaint, who is the complainant in the present case.

The said complaint was quashed on the basis of the compromise which is relied upon in the present petition.

After hearing counsel for the petitioner as well as learned State counsel, I find that the parties have amicably settled their dispute in the complaint filed by the petitioners which already stands quashed vide order dated 14.11.2018 and the complainant has made statement that he has entered into a compromise voluntarily with the petitioners.

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.58 dated 21.7.2013 under Sections 323, 341, 506, 34 IPC, registered at Police Station Fattu Dzinga, District Kapurthala and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioners, however, subject to payment of costs of ₹3,000/- to be deposited with the District Legal Services Authority, Kapurthala.

(ARVIND SINGH SANGWAN)
JUDGE

March 06, 2019
satish

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