

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

**CRM-M No.715 of 2018 (O&M)
Decided on: 11.01.2019**

Rahul Chauhan and others

....Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Ms. Deepa Singh, Advocate
for the petitioners.

Mr. Surinder Singh, AAG, Haryana.

Mr. J.S. Rana, Advocate for respondents No.2 to 14.

ARVIND SINGH SANGWAN, J. (Oral)

CRM No.199 of 2019

Heard.

Allowed as prayed for.

Document (Annexure A1) is taken on record subject to all
just exceptions.

CRM-M No.715 of 2018

The petitioners have prayed for quashing of FIR No.67 dated 02.07.2017, for offence punishable under Sections 148, 149, 307, 323, 325, 506 of the Indian Penal Code (in short 'IPC') and 25/54/59 of the Arms Act registered at Police Station Industrial Sector 7, IMT, Manesar, Gurugram (Annexure P1), on the basis of the compromise (Annexure P3) effected between the parties.

Vide order dated 12.01.2018, the parties were directed to appear before the Illaqa Magistrate to get their statements recorded with regard to genuineness of the compromise.

A report dated 25.01.2018 has been submitted by the Additional Chief Judicial Magistrate, Gurugram, wherein it has been reported that statements of the petitioners and the respondents 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. It is further reported that a valid compromise has been arrived at between the parties. However, in the reply filed by the Assistant Commissioner of Police, Manesar, Gurugram, it was highlighted that petitioner No.7 – Saurabh Chauhan was declared as proclaimed person, thereafter, the petitioners have moved the aforesaid application i.e. CRM No.199 of 2019, for placing on record the order dated 23.10.2018.

Counsel for the petitioners has submitted that, in fact, it is a case of version and cross-version and the cross-version between the parties on the basis of the compromise has already been quashed vide order dated 02.05.2018 passed in CRM-M No.261 of 2018. Counsel for the petitioners has further submitted that though the FIR is registered under Section 307 IPC, however, as per the allegations, the injury sustained by the injured/victims is on non-vital part of the body and therefore, Section 307 IPC is not made out.

This fact is not disputed by counsel for the State, on instructions from ASI Satyaprakash, assisted by counsel for the private respondents, however, a perusal of the report show that even the injured has made a statement on the basis of the compromise that he has no objection if the FIR is quashed.

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 respondents/victims, 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 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 what has been discussed hereinabove, considering the fact that the cross-version has already been quashed and the parties have decided to live in peace in view of the compromise and also considering the fact that the injury sustained by the injured/victims on a non-vital part and there is no medical report to support that the same is declared dangerous to life primarily, offences under Section 307 IPC is not made out. Accordingly, the petition is allowed and FIR No.67 dated 02.07.2017, for offence punishable under Sections 148, 149, 307, 323, 325, 506 IPC and 25/54/59 of the Arms Act registered at Police Station Industrial Sector 7, IMT, Manesar, Gurugram and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners No.1 to 6 and 8 to 10.

(ARVIND SINGH SANGWAN)
JUDGE

11.01.2019

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Whether speaking/reasoned

Yes/No

Whether reportable:

Yes/No