

CRM-M-2153-2019

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

CRM-M-2153-2019

Date of Decision: 30.01.2020

Smt. Durga Devi and others

... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Varun Dutt Attri, Advocate for
Mr. Lokesh Sharma, Advocate,
for the petitioners.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Aditya Sanghi, Advocate,
for respondents No.2 to 8.

HARNARESH SINGH GILL, J. (Oral)

This petition has been filed for quashing of FIR No.539 dated 20.10.2013, registered at Police Station City Narnaul, District Mahendergarh, under Sections 148, 149, 323, 506, 452, 435 and 427 IPC (challan presented under Sections 148, 149, 323, 325, 452, 435, 506, 427 and 307 IPC), and all the subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Vide order dated 18.01.2019 passed by a Coordinate Bench of this Court, the trial Court/Illaq Magistrate was directed to record the statements of the parties with regard to the genuineness and authenticity of the compromise.

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In compliance thereof, the learned Additional District Judge, Narnaul, has submitted a report vide letter dated 14.05.2019, which indicates that the parties appeared before the trial Court and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner.

Learned counsel for the parties state that the parties have mutually settled their dispute and have buried the hatchet. They also state that even FIR in a cross-case has already been quashed by a Coordinate Bench of this Court, vide order dated 06.03.2019, passed in CRM-M-1642-2019.

Perusal of order dated 16.09.2019, it transpires that three of the injured have been declared hostile.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

Undisputedly, the offence punishable under Section 307 IPC is non-compoundable, however, considering the facts and circumstances of the case and in exercise of the inherent powers under Section 482 Cr.P.C., this court has power to accept the compromise. This issue has been decided by the Constitution Bench of the Supreme Court in the case titled as ***Gian***

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Singh Versus 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 personnel 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

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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.”

The same view has been reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another, 2014 (2) RCR (Criminal) 482.***

The offence punishable under Section 307 IPC is non-compoundable being of serious nature, however, if the Court feels that continuation of criminal proceedings will be an exercise in futility and justice in this case demands that the dispute between the parties is put to an end and peace is restored, it can be ordered for quashing of the FIR or criminal proceedings as it is the duty of the Court to prevent continuation of unnecessary judicial process.

Keeping in view the fact that the FIR in cross-case has already been quashed vide order dated 06.03.2019 passed in CRM-M-1642-2019 by a Coordinate Bench of this Court, I find that it is a fit case to exercise the powers under Section 482 Cr.P.C. and no useful purpose would be served in allowing the criminal proceedings to continue.

In view of the law discussed above, considering the compromise arrived at between the parties, I am of the considered opinion that the matter deserves to be given a quietus as continuance of proceedings arising out of the FIR in question would be an exercise in futility.

Accordingly, the present petition is allowed. FIR No.539 dated

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20.10.2013, registered at Police Station City Narnaul, District Mahendergarh, under Sections 148, 149, 323, 506, 452, 435 and 427 IPC (challan presented under Sections 148, 149, 323, 325, 452, 435, 506, 427 and 307 IPC), and all the subsequent proceedings arising therefrom are quashed qua the petitioners on the basis of compromise (Annexure P-2), arrived at between the parties, subject to depositing the costs of Rs.10,000/- by the petitioners with Shri Guru Granth Sahib Sewa Society (Regd.), Opposite New Public School, Sector 18, Chandigarh

Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.

30.01.2020

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

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