

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

**CRM-M No.4057 of 2020 (O&M)
Decided on: 12.11.2020**

Satinder Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Ritesh Pandey, Advocate for the petitioners.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. A.S. Bhatti, Advocate for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.139 dated 16.11.2011, for offence punishable under Sections 323, 325, 452, 34 of the Indian Penal Code (in short 'IPC') registered at Police Station Sri Hargobindpur, Police District Batala, District Batala, on the basis of the compromise effected between the parties.

Vide order dated 31.01.2020, 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 16.03.2020 has been submitted by the Judicial Magistrate Ist Class, Batala, wherein it has been reported that statements of the petitioners and respondent No.2 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.

Counsel for the petitioners has submitted that are that 02 victims i.e. respondent No.2 – Rachhpal Singh and Simranjit Singh son of Rachhpal Singh, who has died long back.

Counsel for the petitioners has further submitted that petitioner No.3 – Disher Singh, was declared as a proclaimed offender on 18.08.2019 as he had gone abroad for the purpose of study and he is unable to come back because of the strict Visa conditions. It is further submitted that the trial Court in compliance of the order dated 12.10.2020, has submitted a report to the same effect that the compromise has been effected between the parties as per the statement of petitioners No.1 and 3 as well as respondent No.2 – Rachhpal Singh.

Counsel for the petitioners has also submitted that the petitioner No.3 is ready to deposit a costs of Rs.1 lac for setting-aside the order declaring him as a proclaimed offender especially in view of the fact that the matter has been compromised and in case the FIR is not quashed qua him, it will come in his way for procuring the work permit in future.

Counsel for the State, on oral instructions from ASI Balkar Singh, has verified that Simranjit Singh has died long back and petitioner No.3 – Dilsher Singh was declared a proclaimed offender.

Counsel for the State as well as counsel for respondent No.2, have no serious objection to the submissions made by counsel for the petitioners and have 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 petitioners and respondent/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, the petition is allowed, the order dated 18.08.2019, declaring the petitioner No.3 – Dilsher Singh as proclaimed offender is set-aside and the FIR No.139 dated 16.11.2011, for offence punishable under Sections 323, 325, 452, 34 IPC registered at Police Station Sri Hargobindpur, Police District Batala, District Batala and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners.

However, this will be subject to the condition that petitioner No.3 – Dilsher Singh will deposit the costs of Rs.1 lac with the Punjab & Haryana Advocates Welfare Fund, within a period of 02 months from today.

The Passport of petitioner No.2 – Shamsher Singh Dhariwal, be also released in his favour.

An intimation be sent to the President of Punjab & Haryana High Court Bar Association, in this regard.

(ARVIND SINGH SANGWAN)
JUDGE

12.11.2020

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Whether speaking/reasoned
Whether reportable:

Yes/No
Yes/No