

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

**CRM-M No.13053 of 2019
Date of decision:31.01.2020**

Aakash and another

... Petitioners

Vs.

State of Haryana and another

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Manoj Kumar, Advocate for the petitioners.

Mr. R.K.Singla, AAG, Haryana.

Mr. Sunny Dhull, Advocate for respondents No.2 to 6.

SUVIR SEHGAL J. (ORAL)

Prayer in this petition under Section 482 of Cr.P.C. has been made for quashing of FIR No.233 dated 20.11.2009, registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar, under Sections 148, 149, 323, 324 and 326 of IPC on the basis of compromise dated 23.01.2019 (Annexure P-3), alongwith all the subsequent proceedings arising therefrom.

Both the petitioners and third accused, Pankaj Kumar, were convicted and sentenced by the Judicial Magistrate Ist Class, Jagadhri on 27.02.2015 (Annexure P-2) and an appeal there against is stated to be pending before the Sessions Judge, Yamuna Nagar.

Vide order dated 20.03.2019, the Illaqa Magistrate/trial Court was directed to submit a report with regard to the authenticity and genuineness of compromise after recording statement of all the affected parties.

In compliance thereof, the District & Sessions Judge, Yamuna Nagar vide letter dated 24.04.2019 has forwarded report dated 03.04.2019 of Judicial Magistrate Ist Magistrate, Yamuna Nagar and submitted that the compromise in question is genuine, voluntary and without any coercion or undue influence. The statements of the parties were recorded accordingly.

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.

The Hon'ble Apex Court in the case of **Gian 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 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.

Since, the statements were recorded and the learned Magistrate is satisfied with the genuineness of the compromise, no useful purpose will be served in allowing the criminal proceedings to continue. Moreover, learned counsel for the parties are *ad idem* that in view of the settlement of dispute between the parties, the present petition deserves to be accepted.

Accordingly, FIR No.233 dated 20.11.2009, registered at Police Station Sadar Yamuna Nagar, District Yamuna Nagar, under Sections 148, 149, 323, 324 and 326 of IPC on the basis of compromise and affidavit alongwith all the subsequent proceedings arising therefrom are quashed, qua the petitioners.

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

31.01.2020
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned : Yes/No
Whether Reportable : Yes/No