

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-35231-2016 (O&M)

Date of decision: 25.02.2020

Amit Kakkar

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Varinder Arora, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J.

Prayer in this petition is for quashing of FIR No.270 dated 22.09.2014 for the offences punishable under Sections 420, 34 of the Indian Penal Code ('IPC' for short), registered at Police Station City Ferozepur, District Ferozepur and all the subsequent proceedings arising therefrom.

During pendency of the present petition, the matter was referred to the Mediation and Conciliation Centre of this Court, wherein a settlement/agreement is arrived at between the parties. The terms and conditions of the settlement/agreement read as under: -

“(a) The first party has given a detail of payment made to the second party amounting to Rs.3,90,000 (Rupees Three Lakhs Ninety Thousand). The second party has only agreed to receive an amount of Rs.2,30,000/- (Rupees Two Lakhs and Thirth

thousand).

(b) It has been agreed between the parties that the first party will pay Rs.2,25,000/- (Rupees two lakhs and twenty five thousand) to the second party as full and final settlement. In lieu of this the second party will have no objection if the abovementioned criminal quashing petition is allowed and FIR No.270 dated 22.9.2014 in Police Station Ferozepur City, under Section 420, 34 IPC by the second party is quashed. The said amount will be paid by the first party to the second party by way of demand draft and will be handed over on the date of hearing in the Hon'ble Court on 29.5.2019.

(c) The first party has alleged that they have paid Rs.65,000/- to Virender Singh, who has received the same in his bank account on behalf of second party. The second party had denied the same. The first party has submitted that they will recover the said amount from Virender Singh and the second party will not have any objection to it. The second party has agreed to it.

(d) It is further agreed between the parties that they will not file any civil or criminal complaint regarding to this matter in any Court of law. By signing this agreement the parties hereto state that they have no further claims or demands against each other with respect to the suit/claim/proceedings filed by them and all the disputes and differences in this regard have been amicably settled by the parties hereto through the process of Conciliation/Mediation and shall not institute any other case

against each other with reference to the present claim...”

The Mediator has recorded his satisfaction that both the parties, after the agreement is read over to them, have signed the same voluntarily. Petitioner Amit Kakkar as well as Gurlal Singh, father of deceased-complainant Chamkaur Singh, have also acknowledged that the matter has been duly compromised.

Learned counsel for the petitioner has placed on record a receipt dated 29.08.2019 duly signed by Gurlal Singh, father of the deceased-complainant Chamkaur Singh, along with his Aadhar Card and the bank draft of the amount equivalent to the amount settled between the parties, as full and final settlement i.e. Rs.2,25,000/-.

Learned State counsel, on instructions from ASI Raman Kumar, has not disputed the fact regarding the compromise.

I have heard learned counsel for the parties and perused the case file.

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 the 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 what has been discussed hereinabove, present petition is allowed and FIR No.270 dated 22.09.2014 under Sections 420, 34 IPC, registered at Police Station City Ferozepur, District Ferozepur and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

[ARVIND SINGH SANGWAN]
JUDGE

25.02.2020
vishnu

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