

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-50653 of 2018

.....

Date of decision:29.01.2020

Sandeep Simak and another

.....Petitioners

v.

State of Punjab and another

.....Respondents

.....

Coram: Hon'ble Mr. Justice Ashok Kumar Verma

.....

Present: Mr. Hitesh Pandit, Advocate for the petitioners.

Mr. M.S. Nagra, Assistant Advocate General,
Punjab for the respondent-State.

None for the complainant-respondent No.2.

.....

Ashok Kumar Verma, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.180 dated 03.12.2017 (Annexure-P.1) registered for the offences under Sections 420 and 120-B IPC and Section 82 of Registration Act, 1908 at Police Station Dugri, District Ludhiana and all subsequent proceedings arising therefrom in view of the compromise dated 29.10.2018 (Annexure-P.2).

The FIR has been registered on the statement of complainant-Jarnail Singh that the accused-petitioners by hatching conspiracy have cheated him. Now with intervention of respectable persons, the matter has been amicably compromised between the parties and they are willing to live peacefully and bury the hatchet.

Keeping in view the fact that the parties have entered into a

[2]

compromise, they were directed to appear before learned trial Court for getting their statements recorded in support of the compromise. After doing the needful, learned Judicial Magistrate Ist Class, Ludhiana has sent report dated 17.05.2019 submitting that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one. Complainant-Jarnail Singh through attorney Sanjay Chopra stated that compromise has been arrived at with the accused-petitioners voluntarily and without any pressure from any side and he has no objection if the FIR is quashed.

Learned State counsel, on instructions from the Investigating Officer admits the factum of compromise and submits that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the FIR in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the petitioners as well as learned State counsel and have gone through the record.

In a decision, based on compromise, none of the parties is a loser. Rather, compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

The Hon'ble Supreme Court in **Gian Singh v. State of Punjab**

and another, 2012 (4) RCR (Cr.) 543, has held that the inherent jurisdiction of this Court under Section 482 Cr.P.C. can be exercised to quash the proceedings in respect of criminal cases 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 even though they are not compoundable. In Para 57 of the judgment, the Hon'ble Supreme Court has observed 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 pre-dominantly 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.”

In view of above law laid down by the Hon'ble Supreme Court, the present case does not fall in anyone of the exceptions carved out above. Therefore, after going through the report dated 17.05.2019 of the Judicial Magistrate Ist Class, Ludhiana, this Court feels that no useful purpose would be served by keeping the proceedings alive. It will be in the interest of justice, if the settlement reached at between the parties is accepted.

Therefore, keeping in view the fact that the matter has been amicably settled and the law laid down in **Gian Singh v. State of Punjab and another** (supra), this petition is allowed and FIR No.180 dated 03.12.2017 (Annexure-P.1) registered for the offences under Sections 420 and 120-B IPC and Section 82 of Registration Act, 1908 at Police Station Dugri, District Ludhiana and all subsequent proceedings arising out of the same are hereby quashed qua the petitioners.

January 29, 2020.

(Ashok Kumar Verma)
Judge

hsp

NOTE:

Whether speaking/reasoned:

Whether reportable:

Yes

No