

217 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-24715-2020

DECIDED ON: 12th October, 2020

INDERJIT KAUR AND ANOTHER

.....PETITIONERS

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Gagandeep Singh Bajwa, Advocate for the petitioners.
Mr. Joginder Pal Ratra, DAG, Punjab.
Mr. Simranjit Singh Advocate for respondent No.2.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition under Section 482 of Cr.P.C for quashing FIR No. 88, dated 9th April, 2020 registered under Sections 420, 120-B of the Indian Penal Code, 1860 and Section 13 Punjab Travel Professional (Regulation) Act, 2014 at Police Station Gate Hakima, Amritsar City and all subsequent proceedings arising therefrom.

The FIR was at the instance of Manbir Singh. As per the allegations in the FIR accused had taken money from the complainant on the pretext of getting visa and sending him abroad.

The parties compromised the matter and the compromise deed dated 10th July, 2020 is annexed with the petition. Para 4 of the compromise deed states as under:-

“4. That both the parties have settled their all disputes/claims against each other with regard to the above said FIR/case and everything has been settled now between the parties and both the

parties would not file any civil or criminal case in future against each other and are now living peacefully and further the cases if any filed by any party against each other would be bound to withdraw the same.”

This Court vide order dated 27th August, 2020 directed the parties to appear before the Illaqa Magistrate/trial Court to get their statements recorded and to submit a report.

In pursuance thereof, the Judicial Magistrate Ist Class, Amritsar has submitted a report dated 5th October, 2020. The relevant portion of the report is quoted below:-

“1. The number of persons arrayed as accused in the present FIR are two;

2. As per report the statement of Police Official-ASI Ram Pal recorded separately, no accused is declared as PO in present case;

3. The compromise is genuine and without any pressure or undue influence of the parties;

Report is submitted for your kind perusal.”

As per the Full Bench judgment of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, 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 felt that the same was required to prevent the abuse of the process of any Court or to otherwise 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 (CrL) 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 2 of 3 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, the allegations had flavour of commercial and financial nature, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, this petition is allowed. FIR No. 88, dated 9th April, 2020 registered under Sections 420, 120-B of the Indian Penal Code, 1860 and Section 13 Punjab Travel Professional (Regulation) Act, 2014 at Police Station Gate Hakima, Amritsar City and all subsequent proceedings arising therefrom, are ordered to be quashed qua the petitioners.

12th October, 2020

sham

**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*