

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

265

CRM-M-24879-2019 (O&M)

Date of decision : 13th January, 2020

AKASHDEEP JAIN

.....Petitioner

Versus

STATE OF PUNJAB & ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Piyush Khanna, Advocate
for the applicant-petitioner.

Mr. V.G. Johar, Sr. DAG, Punjab.

Mr. J.P. Rana, Advocate
for Mr. Ankit Kaushal, Advocate
for the respondent No.2.

SUVIR SEHGAL, J (ORAL)

Prayer in this petition under Section 482 of Cr.P.C. has been made for quashing of FIR No.45 dated 20.04.2010, registered at Police Station Police Station City, Hoshiarpur, under Section 379, 353, 323, 186 and 506 of IPC, 1860 on the basis of compromise dated 13.03.2019 (Annexure-P3), alongwith all the subsequent proceedings arising therefrom.

The petitioner was convicted and sentenced by the trial Court vide judgment dated 09.01.2017 (Annexure P-2) in the above-mentioned FIR, which was lodged by the Punjab National Bank. The appeal of the petitioner against conviction and sentence is pending before the Sessions

Court. During the pendency of the appeal, the petitioner and the Bank have entered into a compromise dated 13.03.2019 (Annexure P-3). Under the compromise, the Bank undertook to withdraw all civil and criminal cases pending against the petitioner. Accordingly the present petition has been filed for quashing the said FIR and all proceedings arising therefrom. Vide order dated 30.10.2019, this Court directed the Illaqa Magistrate/trial Court to submit a report with regard to the authenticity and genuineness of compromise after recording statements of all the affected parties.

In compliance thereof, the Chief Divisional Judicial Magistrate, vide letter dated 03.01.2020 has submitted that the compromise in question is genuine, voluntary and without any coercion or undue influence. The statements of the parties were recorded accordingly. It has however, been submitted in the report that Sh. Rakesh Sharma, Senior Manager, Punjab National Bank at whose instance the FIR was registered is not a party.

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 even in case 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 would 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. Learned counsel for Punjab National Bank-respondent No.2 has further submitted that Sh. Rakesh Sharma, the then, Senior Manager, Punjab

National Bank has been transferred and he has been instructed by the present incumbent that the Bank has no objection to the quashing of FIR and all subsequent proceedings.

Accordingly, FIR No.45 dated 20.04.2010, registered at Police Station Police Station City, Hoshiarpur, under Section 379, 353, 323, 186 and 506 of IPC, 1860 on the basis of compromise alongwith all the subsequent proceedings arising therefrom including order of conviction, are quashed, qua the petitioner.

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

(SUVIR SEHGAL)
JUDGE

13.01.2020
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No