

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

CRM-M-30379 of 2020

Date of Decision: 19.11.2020

Varun Monga and another

Petitioners

Versus

M/s Jaquar and Company Pvt. Ltd and another

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Deepam Raghav, Advocate for the petitioners.

Mr. Ajay Ghangas, Advocate for respondent No.1.

Ms. Safia Gupta, AAG Haryana.

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. 260 dated 24.9.2020 under Section 120-B/408/420 IPC registered at Police Station Industrial Area Sector 7, Manesar, Gurugram and all subsequent proceedings arising therefrom. The quashing is sought on the basis of compromise dated 16.9.2020.

On 30.09.2020, this Court directed the parties to get their statements recorded. Report dated 27.10.2020 is received from Chief Judicial Magistrate, Gurugram and the relevant portion is reproduced below:

"(i) There are total four accused persons arrayed in the present case namely, Prashant Rastogi, Rahul Mehra, M/s Accelerated Warehousing Logistics Pvt. Ltd. and Varun Monga.

(ii) The accused above named never declared proclaimed offenders.

(iii) The case is still at the stage of investigation.

(iv) The statement of all the concerned parties have been recorded and the compromise effected between the parties is genuine, voluntarily and without any coercion and undue influence.

(v) Statement of the IO has been recorded with regard to points no.(i), (ii) and (iii), as above."

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 noncompoundable 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.”

Learned counsel appearing for the private respondent has no objection if the FIR is quashed.

Considering that the dispute has a flavour of commercial transaction and the parties have settled the matter amicably, to meet the ends of justice, the above mentioned FIR and all consequential proceedings are hereby quashed.

[AVNEESH JHINGAN]
JUDGE

19th November, 2020

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |