

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

CRM-M-41826-2019(O&M)

Date of Decision: 28.2.2020

Ramesh Rajivbhai Naria and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Ayush Gupta, Advocate for the petitioner.

Mr. Dhruv Dayal, Senior DAG, Punjab.

Mr. Deepak Sabherwal, Advocate for respondent No. 2.

HARNARESH SINGH GILL ,J. (ORAL)

Prayer has been made for quashing of FIR No. 371 dated 01.11.2017, registered at Police Station Zirakpur, District SAS Nagar (Mohali), under Sections 406, 420, 120-B IPC (Sections 411, 414 IPC added later on), on the basis of settlement/compromise dated 18.09.2019 (Annexure P-2).

Vide orders dated 27.09.2019 passed by a Coordinate Bench of this Court, the parties were directed to appear before Illaqa Magistrate/trial Court for recording their statements with regard to the compromise and the Illaqa Magistrate/trial Court was directed to submit a report with regard to the genuineness and validity of the compromise.

Learned counsel for the petitioners handed over the Demand

Drafts bearing Nos. 057141, 057142 dated 06.02.2020 amounting to Rs. 5 each, 057143 dated 06.02.2020 amounting to Rs. 15 lakhs, 057144 dated 06.02.2020 amounting to Rs. 10 lakhs, 057145 dated 06.02.2020 amounting to Rs. 10 lakhs and 057146 dated 07.02.2020 amounting to Rs. 5 lakhs, to the learned counsel for respondent No. 2 in Court today, total amounting to Rs. 50 lakhs. Photocopies of Demands Drafts are taken on record.

Learned counsel for the petitioner contends that since the parties have settled the dispute on the basis of compromise, therefore, the present FIR may be quashed, in support of his contention he relies upon the judgment of Hon'ble Supreme Court in '*Lovely Salhotra and another Vs. State NCT of Delhi and another*' 2017 (3) RCR (Criminal) 85.

In compliance thereof, the Judicial Magistrate Ist Class, Dera Bassi, has submitted a report vide letter dated 23.10.2019 which indicates that the parties appeared before him and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine, voluntary and without coercion or undue influence.

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 in case of 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 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.

Accordingly, the petition is allowed. FIR No. 371 dated 01.11.2017, registered at Police Station Zirakpur, District SAS Nagar (Mohali), under Sections 406, 420, 120-B IPC (Sections 411, 414 IPC

added later on), are hereby quashed qua the petitioners on the basis of settlement/compromise dated 18.09.2019 (Annexure P-2), subject to depositing the costs of Rs.10,000/- by the petitioners with Shri Guru Granth Sahib Sewa Society (Regd.), opposite New Public School, Sector-18, Chandigarh .

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

(HARNARESH SINGH GILL)
JUDGE

28.02.2020

Mangal Singh

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