

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-42809-2019 (O&M)

Date of decision: 26.02.2020

Bikkar Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Deepak Aggarwal, Advocate
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

Mr. Veneet Sharma, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

The petitioners have prayed for quashing of complaint No.COMI-1400/2013 dated 19.07.2013 for the offences punishable under Sections 323, 324, 427, 207, 201, 167, 168, 506, 34 of the Indian Penal Code ('IPC' for short) and the judgment of conviction dated 30.01.2019 as well as the order of sentence of even date, vide which petitioners Bikkar Singh and Gurjant Singh were held guilty for the offence punishable under Sections 324, 323 IPC read with Section 34 IPC and were sentenced to undergo R.I. for a period of one and half year, with a fine of Rs.500/- each, whereas one co-accused Dalip Singh was acquitted and all the subsequent proceedings arising therefrom, on the basis of compromise effected between the parties.

The petitioners preferred an appeal before the lower appellate Court, which is pending and during pendency of the appeal, the parties have amicably settled their dispute.

Vide order dated 04.10.2019, the parties were directed to appear before the lower appellate Court, where the appeal is pending, for the purpose of recording their statements with regard to genuineness of the compromise and the lower appellate Court was directed to submit the report in this regard.

A report dated 18.12.201 has been submitted by the Additional Sessions Judge, Bathinda, wherein it has been reported that one of the co-accused Dalip Singh stands acquitted vide judgment dated 30.01.2019, whereas both the petitioners were convicted and are in appeal. It is further stated that as per statement of complainant Sukhdev Singh, he has effected a compromise with the petitioners, without any pressure, threat or coercion.

Learned counsel for the petitioners submits that both the petitioners and the complainant are residents of the same village and in order to bring peace and harmony amongst the families of both sides, compromise has been effected between the parties. It is further submitted that no other criminal case is pending between the parties and none of the petitioner is a proclaimed offender.

Learned counsel for the petitioners has relied upon a Full Bench judgment of this Court in **Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, wherein it is held that the 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

feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone. Learned counsel has further relied upon **Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543**, wherein the Hon'ble Supreme Court has held as under:-

“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 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 State counsel as well as learned counsel for respondent No.2 have not disputed the fact regarding the compromise.

I have heard learned counsel for the parties and perused the case file.

In Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (Crl.) 102, a Division Bench of this Court has held that even after conviction, if the parties have settled the dispute amicably and have decided to live in peace and harmony, this Court, in exercise of powers

under Section 482 Cr.P.C, can compound the offence.

In view of what has been discussed hereinabove, present petition is partly allowed. While upholding the judgment of conviction dated 30.01.2019, the order of sentence of even date is modified to the extent of reducing the sentence already undergone by the petitioners, however, subject to payment of costs of Rs.10,000/- to be deposited with the District Legal Services Authority, Bathinda.

[ARVIND SINGH SANGWAN]
JUDGE

26.02.2020
vishnu

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