

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

CRM-M-11560-2020 (O&M)

Date of decision: 26.11.2021

Hardeep Singh Bajwa @ Gurdeep Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Harpreet Singh Gharuan, Advocate for the petitioner.

Mr. Sandeep Kumar, DAG Punjab.

Mr. S. N. Sharma, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

CRM-39311-2021

Prayer in the present application under Section 482 Cr.P.C. is for preponement of the date of hearing of the main case, which is fixed for 04.02.2022.

Notice of the application.

On the asking of this Court, learned State counsel and learned counsel for respondent No. 2, accept notice and submit that they have no objection, if the aforesaid prayer is allowed.

In view of the above, the application is allowed and the date of hearing of the main case is preponed from 04.02.2022 to that of today and the same is taken on the Board for hearing.

Main case:

Prayer in this petition is for quashing of FIR No.107 dated 01.06.2000 under Sections 323, 324 and 34 IPC, registered at Police Station Phillaur, District Jalandhar (Annexure P-1) along with all the subsequent proceedings arising therefrom as well as the order dated 18.05.2002 (Annexure P-2) passed by the trial Court whereby the petitioner has been declared a proclaimed offender, on the basis of compromise dated 10.10.2019 (Annexure P-6).

The petitioner is appearing through Special Power of Attorney.

Learned counsel for the petitioner states that the petitioner is residing in United Kingdom on the work permit and has been issued a British Passport, which is valid upto 30.12.2026 and he wants to visit India for a marriage function, which was performed in U.K. It was in the notice of the learned Judicial Magistrate that the petitioner is not putting up on the given address and has gone abroad. Thus, without complying with the provisions of Section 82 Cr.P.C., the petitioner was declared as a proclaimed offender, whereas the petitioner neither has absconded nor concealed himself from the Court.

Learned counsel for the petitioner further states that the co-accused Sukhjit Singh already stands acquitted on 05.07.2012 as complainant/respondent No.2 did not appear before the trial Court despite numerous opportunities given to him and now a compromise has been arrived with the complainant on 10.06.2019.

Learned counsel for the petitioner relies upon the judgments of Coordinate Bench of this Court in CRM-M-14143 of 2019 titled 'Gurdeep

Singh Vs. State of Punjab', decided on 07.11.2019 and CRM-M-49560 of 2017, titled 'Amandeep Singh and others Vs. State of Punjab and another', decided on 23.02.2018.

Vide orders dated 19.03.2021, the Illaqa Magistrate/trial Court was directed to record the statements of all concerned parties with regard to the genuineness and validity or otherwise of the compromise.

In compliance thereof, learned Sub-Divisional Judicial Magistrate, Phillaur, has submitted a report vide letter dated 13.05.2021, 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 with free will and without any pressure or coercion.

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.107 dated 01.06.2000 under Sections 323, 324 and 34 IPC, registered at Police Station Phillaur, District Jalandhar (Annexure P-1) along with all the subsequent proceedings arising therefrom, are hereby quashed qua the petitioner, on the basis of compromise dated 10.10.2019 (Annexure P-6), subject to depositing the costs of Rs.1,00,000/- by the petitioner with the Punjab Government Treasury through its Treasury Officer, Sector-17, Chandigarh.

As the very proceedings arising out of the FIR have been quashed by this Court on the basis of compromise between the parties, this Court does not see any justifiable reason to continue with the order declaring the petitioner as a proclaimed offender. May it be noted that the FIR is of the year 2000 and the proclaimed offender order was passed on 18.05.2002. Therefore, the proclamation order, though treated differently, would serve no purpose, as the very FIR out of which the said order has arisen, stands quashed. Reference may be made to the judgments of a Coordinate Bench in Gurdeep Singh's case (Supra).

In view of the above, the proclamation order dated 18.05.2002 (Annexure P-2) is also quashed.

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

26.11.2021

Mangal Singh

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No