

**CRM-8817-2021 in/and
CRM-M-14158-2019 (O & M)**

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

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**CRM-8817-2021 in/and
CRM-M-14158-2019 (O & M)
Date of decision: 26.03.2021**

Jasbir Singh and others

...Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. G.S.Brar, Advocate,
for the petitioners.

Mr. Ramdeep Partap Singh, DAG, Punjab.

Mr. Sandeep Singh, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

CRM-8817-2021

The present application has been filed under Section 482 Cr.P.C. for an early hearing of the main petition, which is fixed for 01.04.2021.

Notice in the application.

On the asking of this Court, Mr. Ramdeep Partap Singh, DAG, Punjab, accepts notice on behalf of respondent No.1.

At this stage, Mr. Sandeep Singh, Advocate, puts in appearance on behalf of respondent No.2.

Learned State counsel and learned counsel for respondent No.2 submit that they have no objection, if the present application is allowed.

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In view of the above, the present application is allowed and the date of hearing in the main petition is preponed from 01.04.2021 to that of today.

CRM-M-14158-2019

This petition has been filed for quashing of complaint No.COMI/01/2017 dated 07.01.2017, under Sections 406, 498-A and 34 IPC, titled as 'Geetanjali Vs. Jasbir Singh and others' and all the subsequent proceedings arising therefrom, including the summoning order dated 13.07.2017 (Annexure P-2) and the judgment of conviction and order of sentence dated 28.09.2018 (Annexure P-3), on the basis of compromise dated 28.02.2019 (Annexure P-6) and statements (Annexures P-7 and P-8) recorded under Section 13-B of the Hindu Marriage Act, 1955.

It would be apposite to mention here that vide judgment of conviction and order of sentence dated 28.09.2018 (Annexure P-3), the petitioners stood convicted under Section 498-A IPC and sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.1,000/- each and in default thereof, to further undergo simple imprisonment for a period of one month each.

Vide order dated 25.09.2019 passed by a Coordinate Bench, of this Court, the Illaqa Magistrate/Duty Magistrate/Trial Court had been directed to record the statements of the parties with regard to the genuineness and authenticity of the compromise.

In compliance thereof, the learned Sub Divisional Judicial Magistrate, Phagwara, has submitted a report, vide letter dated 22.11.2019, indicating that the parties had appeared before the Magistrate and got

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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 and without any pressure or coercion from any corner.

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 Supreme Court in the case of ***Smt. Anita Maria Dias and another Vs. State of Maharashtra and another, 2018 (1) R.C.R. (Criminal) 983***, has observed in para Nos.6 and 7, as under:-

“6) Insofar as first reason given by the High Court is concerned, learned counsel appearing for respondent No. 2 made a categorical statement before us on instructions from respondent No. 2 that he has, in fact, settled the matter on terms which are being taken note of above. He has further stated that respondent No. 2 has no objection if the proceedings arising out of the aforesaid FIR are quashed. We find that the matter is settled by the complainant out of his free will.

*7) In a case like this, where the proceedings are still at initial and nascent stage, the High Court should have exercised its discretion in quashing the proceedings. Law in this behalf is well settled by catena of judgments of this Court including ***Parbatbhai Aahir & Ors. v. State of Gujarat & Anr., 2017(4) R.C.R (Criminal) 523 : 2017 (5) Recent Apex Judgments (R.A.J.) 462 : (2017) 9 SCC 641****

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and Gian Singh v. State of Punjab & Anr., 2012 (4) R.C.R. (Criminal) 543 : 2012 (4) Recent Apex Judgments (R.A.J.) 549 : (2012) 10 SCC 303. We may also quote the following passage from the case of Narinder Singh & Ors. v. State of Punjab & Anr., 2014 (2) R.C.R (Criminal) 482 : 2014 (2) Recent Apex Judgments (R.A.J.) 621 : (2014) 6 SCC 466 :

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4 On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6 Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be

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generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7 While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

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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. The parties are allowed to compound the offence.

Consequently, the present petition is allowed. The judgment of conviction and order of sentence dated 28.09.2018 (Annexure P-3) passed by the learned Sub Divisional Judicial Magistrate, Phagwara, stands set aside and accordingly, the complaint No.COMI/01/2017 dated 07.01.2017, under Sections 406, 498-A and 34 IPC, titled as 'Geetanjali Vs. Jasbir Singh and others' and all the subsequent proceedings arising therefrom, including the summoning order dated 13.07.2017 (Annexure P-2) stand quashed qua the petitioners, on the basis of compromise dated 28.02.2019 (Annexure P-6) and statements (Annexures P-7 and P-8), subject to them depositing the costs of Rs.10,000/- with the Poor Patients' Welfare Fund, Postgraduate Institute of Medical Education and Research (PGIMER), 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**

March 26, 2021

Jyoti-1 Whether reasoned/speaking? Yes/No Whether reportable? Yes/No