

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

CRM-M-21777-2021
Date of decision: 02.07.2021

Balvinder Singh

....Petitioner

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Raman Goklaney, Advocate, for the petitioner.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioner seeks quashing of FIR No. 38 dated 08.03.2021 registered under Sections 379 and 406 IPC, at Police Station Baragudha, District Sirsa, Haryana.

The aforesaid FIR was got registered by complainant-respondent No.2 with the allegation that the petitioner after having got filled the fuel of Rs.500/- fled from the petrol pump without making payment thereof.

However, as would appear from the documents on record coupled with the averments made in the present petition, the petitioner has since paid the said amount of Rs.500/- to the complainant and the complainant has also testified to that effect vide affidavits dated 28.04.2021 and 20.05.2021 (Annexures P.2 & P.3).

While reiterating the aforesaid factual position, learned counsel for the petitioner vehemently submits that as there was no intentional overt or covert act on the part of the petitioner and having realized his mistake, he has since paid the amount of Rs.500/- to the complainant, which is not disputed by the complainant, no useful purpose would be served by continuing with the present proceedings.

Notice of motion.

Mr. Ashok Singh Chaudhary, Additional AG, Haryana, accepts notice on behalf of respondent No.1 and Mr. Rahul Arora, Advocate, accepts notice on behalf of respondent No.2.

Contesting seriously the submissions of the learned counsel for the petitioner, learned State counsel emphatically opposes the prayer made and rather states that once, the petitioner ran away from the spot knowing full well the intentional non-payment of the fuel charges, he cannot escape the criminal prosecution and be allowed to scuttle the proceedings mid-way.

Learned counsel appearing for complainant-respondent No.2, however, does not dispute the receipt of the amount by the complainant and the execution of affidavits (Anexures P.2 and P.3) by him. He, thus, has no objection to the quashing of the FIR.

Having heard learned counsel for the parties, this Court is of the view that as the amount stands paid and the complainant has also given his no objection for quashing of the FIR, continuing with the proceedings arising out of the FIR would be an abuse of process of law and rather amount to adding to huge pile of the criminal trials. The litigating parties i.e. the petitioner and complainant, are not vying for further proceedings. The said course of action, thus, stifles the arguments raised by the learned State counsel.

The Hon'ble Full Bench of this Court in case Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052 and the 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 in the cases involving non-compoundable offence(s).

The Hon'ble Apex Court in the case of Gian Singh vs 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.

In view of the above, the present petition is allowed. Accordingly, FIR No. 38 dated 08.03.2021 along with all consequential proceedings arising therefrom, is hereby quashed.

(HARNARESH SINGH GILL)
JUDGE

02.07.2021
Ishwar

Whether reasoned/speaking? Yes/No
Whether reportable? Yes/No