

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-28625-2021(O&M) Date of Decision:23.07.2021.

Balwinder Kumar @ Bau and others --Petitioners

Versus

State of Punjab and another --Respondents

2. CRM-M-28600-2021(O&M)

Rajesh Kumar @ Kala and others --Petitioners

Versus

State of Punjab and another --Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ.

Present:- Ms. Manjit Kaur Saini, Advocate for the petitioners
(in CRM-M-28625-2021).

Ms. Minkal Thatai, Advocate for the petitioners
(in CRM-M-28600-2021).

Mr. M.S. Nagra, A.A.G., Punjab.

RAJESH BHARDWAJ.J (Oral)

Matter has been taken up through video conferencing via Webex facility in the light of the Pandemic Covid-19 situation and as per instructions.

In view of the common facts and identical prayers having been raised, both these petitions are being dealt with by this common order at the motion stage itself.

Both these petitions have been filed under Section 482 Cr.P.C praying for quashing of FIR No.0015 dated 9.3.2021 under sections 376, 120-B I.P.C, registered at Police Station, Bhindi Saidan, District Amritsar Rural along with all subsequent proceedings arising therefrom, on the basis of a compromise dated 5.5.2021 (Annexure P-2) arrived at between the

parties (in CRM-M-28625-2021) and FIR No.0018 dated 24.3.2021 under sections 354, 323, 452, 34 I.P.C, registered at Police Station, Bhindi Saidan, District Amritsar Rural along with all subsequent proceedings arising therefrom, on the basis of a compromise dated 31.5.2021 (Annexure P-2) arrived at between the parties (in CRM-M-28600-2021).

As per allegations in the FIR No.0015 dated 9.3.2021, all the three petitioners in CRM-M-28625-2021 hatched a conspiracy, wherein petitioner no.2 called the prosecutrix/respondent no.2 in his house and with the aid of petitioner no.3 she was raped by petitioner no.1 Balwinder Kumar @ Bau. Aggrieved by the same, prosecutrix/respondent no.2 got registered the FIR in question on 9.3.2021 against the petitioners for taking legal action against them. When the investigation in the aforesaid FIR No.15 was in progress, the accused side nurtured a grudge against the complainant party of FIR No.15 and on 20.3.2021 the accused namely Rajesh Kumar @ Kala, Balwinder Kumar @ Bau and Harwinderpal Goru (all petitioners in CRM-M-28600-2021) in order to settle the score with the complainant side of FIR No.0015 dated 9.3.2021 forcibly entered the house of Balwinder Kumar @ Bau and outraged the modesty of his wife prosecutrix (name withheld). Resultantly, wife of Balwinder Kumar @ Bau got registered FIR No.18 dated 24.3.2021 against all the three above named persons.

Investigation in both the aforementioned FIRs was underway when both the parties, who belong to the same village, with the intervention of the respectables, arrived at compromise and decided to bury the hatchet. Hence, both the petitions have been filed with the respective prayer for quashing of the aforementioned two FIRs on the basis of compromise arrived at between the parties.

Learned counsel appearing for the petitioners in both these petitions have contended that the parties have amicably resolved their dispute and continuation of criminal prosecution in pursuance to the impugned FIRs would be nothing but an abuse of the process of law. It has been further contended that this Court in exercise of powers under Section 482 Cr.P.C would intervene to bring to an end criminal proceedings even in relation to offences, which are non-compoundable. A reference in this regard has been made to a Full Bench judgement of this Court rendered in case of **Kulwinder Singh and others Vs. State of Punjab and another, 2007 (3) R.C.R (Criminal) 1052.**

On the other hand, learned State counsel has opposed the contentions raised by learned counsel for the petitioners on the ground that offences in question are non-compoundable and belong to heinous category and thus no question of quashing the FIRs in question, on the basis of alleged compromises arrived at between the parties, arises.

I have heard learned counsel for the parties at length and gone through the records made available.

From the bare perusal of the facts in both the petitions, it is evident that the offences involved fall under the heinous category. It is also apposite to take note that the prosecutrix and the accused in both the FIRs are major and grown-up persons. There is no doubt regarding the judicial precedents relied upon by the counsel for petitioners, wherein this Court as well as the Hon'ble Apex Court in the judgement, ***Gian Singh Vs. State of Punjab & others (2012) 10 SCC 303*** have laid the guidelines for quashing the FIR on the basis of amicable settlement. However, the facts and circumstances of the present cases are distinguishable and hence the cases in

hand failed to qualify the parameters laid down by the Hon'ble Apex Court.

It is apparent that both the parties have arrived at the compromise primarily on the conditions that cases against both the sides should come to an end simultaneously which is not possible in view of the guidelines laid down. Every case has its own facts and circumstances and there cannot be a 'Straight Jacket Formula' to be applied to all the cases.

In the considered opinion of this Court, both the aforementioned petitions do not fall in the category of the cases, where this Court in exercise of power under Section 482 Cr.P.C should intervene to bring to an end criminal proceedings even in relation to offences, which are non-compoundable and quash the FIRs in question, as prayed for. Both the parties are at liberty to avail the grounds available to them before the Trial Court.

In view of the above discussion, both these petitions are disposed of in above mentioned terms.

(RAJESH BHARDWAJ)
JUDGE

23.07.2021

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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No