

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

CRM-M-28858-2020(O&M)

Date of decision: 28.01.2021

Shankar @ Jatin

...Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Nitin Mottoo, Advocate for the petitioner.

Mr. Ajay Pal Singh Gill, DAG Punjab.

Mr. S.S. Thakur, Advocate for complainant-respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 311 dated 31.12.2019 under Section 420 of the Indian Penal Code, 1860 and Section 24 of the Immigration Act registered at Police Station Focal Point, District Ludhiana, along with all the consequential proceedings arising therefrom, on the basis of affidavit dated 15.07.2020 (Annexures P-2) executed between the petitioner and complainant-respondent No. 2.

Learned counsel for the petitioner points out that the FIR was registered against against two persons i.e. petitioner and Rajbir Singh @ Aman and at present Rajbir Singh @ Aman is resident of Armenia, Europe.

Vide order dated 18.11.2020, the concerned CJM/Illaq 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, the learned Chief Judicial Magistrate, Ludhiana, has submitted a report vide letter dated 21.12.2020 which indicates that the petitioner and complainant-respondent No. 2 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 genuine, voluntarily and without coercion or undue influence.

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. 311 dated 31.12.2019 under Section 420 of the Indian Penal Code, 1860 and Section 24 of the Immigration Act registered at Police Station Focal Point, District Ludhiana, along with all the consequential proceedings arising therefrom, are hereby quashed qua the petitioner, on the basis of affidavit dated 15.07.2020 (Annexure P-2), subject to depositing the costs of Rs.10,000/- by the petitioner with the Poor Patient Welfare Fund (PPWF) of Post Graduate Institute of Medical Education & Research 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

28.01.2021
Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No