

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

Sr. No.213

**Reserved on: 16.12.2021**  
**Date of Decision: December 22nd, 2021**

**1) CRM-M-32248 of 2020**

|                            |        |                 |
|----------------------------|--------|-----------------|
| Sidharth Malhotra          | Versus | .... Petitioner |
| State of Punjab and others |        | ... Respondents |

**2) CRM-M-38434 of 2020**

|                            |        |                 |
|----------------------------|--------|-----------------|
| Sidharth Malhotra          | Versus | .... Petitioner |
| State of Punjab and others |        | ... Respondents |

**CORAM: HON'BLE MR. JUSTICE SANT PARKASH**

Present: Mr. D.S.Pheruman,  
Advocate for the petitioner(s).

Mr. Tanvir Joshi, AAG, Punjab.

Mr. Avtar Singh Bhati, Advocate  
for respondents No.2 and 3.

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**SANT PARKASH, J.**

This judgment shall dispose of aforementioned two petitions arising out of same FIR. The petition bearing No.CRM-M-32248 of 2020 has been filed seeking quashing of FIR No.225 dated 13.12.2015, registered under Sections 452, 324, 323, 506 and 34 IPC at Police Station City Kotkapura, District Faridkot and all consequential proceedings arising therefrom, on the basis of compromise dated 13.09.2018 (Annexure P-2) arrived at between the parties and the other petition bearing No. CRM-M-38434 of 2020 has been filed seeking quashing of order dated 18.09.2019 passed by learned JMIC, Faridkot, whereby the petitioner-

Sidharth Malhotra has been declared as Proclaimed Offender.

In order to support his case, learned counsel for the petitioner submits that a petition bearing No.CRM-M-46457 of 2018 was filed by the father of the present petitioner before this Court, seeking quashing of the FIR on the basis of compromise and vide order dated 22.10.2018 passed by this Court, the present petitioner as well as his father (Randeep Kumar @ Rana) were directed to appear before learned trial Court/Area Magistrate for recording their statements on 16.11.2018. As the present petitioner had already applied in Germany for higher education and had got the visa, he left for Germany on 09.03.2019 and after getting admission there, he was expecting to appear in Court on 18.03.2019. The father of the present petitioner had filed an application before learned Judicial Magistrate for exemption of personal appearance of the petitioner. The petitioner also made a request to the institute in Germany to allow him to return to India but the same was not allowed. As a result thereof, the petitioner was declared Proclaimed Offender on 18.09.2019.

Learned counsel contends that offences against the present petitioner are primarily bailable and when he is still in Portugal and gave power of attorney to his father, his case does not fall under Sub Section 4 of the Section 82 of Cr.P.C. He further contends that in view of the matter having been compromised between the parties and also that most of the offences being bailable, the order dated 18.09.2019 declaring the petitioner as Proclaimed Offender is liable to be quashed.

Further, in compliance of the orders dated 13.01.2021 passed by this Court, parties appeared before learned trial Court for the purpose of recording their statements and a report dated 22.02.2021 of learned JMIC,

Faridkot (Flag 'A') to the said effect has been received wherein in para 4, it has been submitted as under:-

- “I) As per the statements of parties i.e., petitioner Sidharth Malhotra through his special power of attorney of Randeep Malhotra and respondents No.2 and 3 namely Ravi Kulbhushan and Sat Paul @ Sat Pal Garg and statement of investigating officer, the FIR was registered against accused Sidharth Malhotra and Randeep Malhotra, accused Sidharth Malhotra appeared before the Court through his special power of attorney Randeep Malhotra. Further as per statements of parties and investigating officer, accused Sidharth Malhotra is proclaimed offender in this case.
- II) As per statements of parties and investigating officer, Ravi Kulbhushan and Sat Paul @ Sat Pal Garg are the only complainant/aggrieved persons in this case and both of them appeared before the Court to make their statements in support of the compromise.
- III) As per the record/main case file, the case titled as State versus Randeep Malhotra and another, accused Sidharth Malhotra was declared proclaimed person vide order 18.09.2019 and accused Randeep Malhotra was convicted vide judgment dated 01.02.2020 and now nothing is pending before this Court.
- IV) As per the statements of the parties, the compromise is genuine, voluntary and out of free will of the parties.”

Learned State counsel and learned counsel appearing for respondents No.2 and 3 admit the factum of compromise and submit that they have no objection to the quashing of the FIR.

I have heard learned counsel for the parties and have gone through the record.

The extent and sweep of inherent powers of the High Court under Section 482 Cr.P.C., for quashing criminal prosecution on merits as well as on the basis of compromise between the accused and the victim remained question of interpretation since long.

Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (CrL) 1052** considered the scope of powers under Section 482 Cr.P.C., to hold that High Court has powers to quash prosecution in order to achieve ends of justice and to prevent abuse of process of law. These powers are not limited to matrimonial dispute alone, rather these powers are unlimited. However these powers are to be exercised very sparingly and with utmost care and caution. There is no statutory bar which can affect the inherent powers of High Court under Section 482 Cr.P.C. The powers under Section 482 Cr.P.C., is to be exercised Ex-Debitia, justitia to prevent abuse of process of Court.

In exercise of inherent powers under Section 482 Cr.P.C., criminal proceedings are not to be quashed where the offence is heinous in nature. Proceedings can only be quashed where the issue is overwhelmingly and predominantly of civil profile arising out of commercial, financial, mercantile and civil or matrimonial nature. In a way dispute may involve wrong which is basically private or personal in nature and the parties have redressed the same by entering into compromise.

In **Gian Singh vs. State of Punjab and another 2012(4) RCR (CrL) 543**, the Hon'ble Supreme Court considered necessary imports of all previous precedents and observed in the following manner:-

*“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*

*personal 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.”*

From the record, it has become evidently clear that the petitioner had left India on 09.03.2019 and intended to come back to join the proceedings before the Court on 18.03.2019 but could not do so on account of unavoidable circumstances. The proceedings under Section 82 Cr.P.C. were initiated when he was away to Germany and was declared as Proclaimed Offender.

Taking into consideration the bonafide of the petitioner and further considering the fact that the parties have amicably settled the dispute, the order dated 18.09.2019 declaring the petitioner as Proclaimed offender is hereby set aside.

After considering the nature of offences allegedly committed in the instant case and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

Taking into consideration totality of facts and circumstances, this Court is further of the view that the case can be considered for quashing of FIR along with subsequent proceedings arising therefrom, on the basis of compromise dated 13.09.2018 (Annexure P-2). Resultantly, FIR No.225 dated 13.12.2015, registered under Sections 452, 324, 323, 506 and 34 IPC at Police Station City Kotkapura, District Faridkot and all the subsequent proceedings are hereby quashed qua the petitioner.

Accordingly, both the petitions stand disposed of.

**(SANT PARKASH)**  
**JUDGE**

**December 22<sup>nd</sup>, 2021**  
Maninder

|                           |   |        |
|---------------------------|---|--------|
| Whether speaking/reasoned | : | Yes/No |
| Whether reportable        | : | Yes/No |