

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

CRM-M-32737-2020(O&M)

Date of decision : 21.01.2021

Surjit Singh and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Aman Dhir, Advocate for the petitioners.

Mr. V.G. Jauhar, Sr. DAG, Punjab.

Mr. Briz Mohan, Advocate for respondent Nos.2 and 3.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

On 14.10.2020, the following order was passed:-

“Heard through video conferencing.

This is a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.240 dated 29.08.2020 under Sections 324, 323, 506, 427, 188, 148, 149 of the Indian Penal Code, 1860 and Section 27 of Arms Act 1959 and Section 51 of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897 registered at Police Station Kotbhai, District Sri Muktsar Sahib, on the basis of compromise dated 05.10.2020 (Annexure P-2).

The learned counsel for the petitioners has contended that the dispute in the present case is between close relatives. The parties to the dispute have now entered into a compromise with the intervention of Panchayat and have resolved all their issues. The factum of the compromise has been reduced into writing vide Annexure P-2. Affidavits of respondent Nos.2 and 3 have also been attached with

the petition as Annexures P-3 and P-4. Learned counsel for the petitioners has relied upon the Larger Bench's judgement of this Court in "Kulwinder Singh and others V/s State of Punjab and another" 2007 (3) RCR (Criminal) 1052 to contend that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

Notice of motion.

On the asking of the Court, Mr. Ramandeep Sandhu, Senior Deputy Advocate General, Punjab has joined the session through video conferencing (VC) and accepts notice on behalf of respondent No.1- State. Mr. Briz Mohan, Advocate, who has also joined the Court proceedings through VC, accepts notice on behalf of respondent Nos.2 and 3. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent Nos.2 and 3 has stated that the parties have since entered into a compromise, a copy whereof is annexed as Annexure P-2 with the petition and all disputes now stands resolved. It is further stated the matter is between close relatives and now the matter has been amicably resolved and, hence, they do not want to pursue the FIR.

Adjourned to 18.12.2020.

Meanwhile the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 04.11.2020, or on any other date convenient to the Court, for recording of their statements. The CJM/Illaq Magistrate/Trial Court is directed to record the statements of the parties to its satisfaction qua the genuineness of the compromise and that the same is not the result of any undue influence, coercion or pressure of any kind. A report, along-with the statements of the parties, on the following points be sent to this Court before the next date of hearing:

- 1) Whether the settlement/compromise dated 05.10.2020 is genuine and has been freely entered into by the parties without any undue influence, coercion or pressure of any kind.*
- 2) Whether any other criminal cases are pending against the parties.*
- 3) Whether any proclamation proceedings are pending against either of the parties.”*

The parties have since appeared and got their statements recorded before the Judicial Magistrate First Class, Gidderbaha and the report dated 19.11.2020 has since been received from the Judicial Magistrate First Class, Gidderbaha wherein it has been stated that the compromise is genuine, voluntary and without any coercion or undue influence. There are no other cases pending against either of the parties nor any proclamation proceedings are pending against them.

The Apex Court in the case of “Gian Singh V/s State of Punjab & Anr.” 2012 (10) SCC 303, 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 pre-dominantly 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.”

Learned counsel for the petitioner has also referred to the law laid down by this Court in “**Kulwinder Singh & Ors. Vs. State of Punjab & Anr.**” 2007 (3) RCR (Criminal) 1052, wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 of the Code of Criminal Procedure, 1973 to quash the proceedings to prevent abuse of law and secure the ends of justice.

In view of the above and keeping in view the report by the Judicial Magistrate First Class, Gidderbaha that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

Resultantly, FIR No.240 dated 29.08.2020 under Sections 324, 323, 506, 427, 188, 148, 149 of the Indian Penal Code, 1860 and Section 27 of Arms Act, 1959 and Section 51 of the Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897 registered at Police Station Kotbhai, District Sri Muktsar Sahib as well as all the subsequent proceedings arising there-from, stand quashed.

The petition is accordingly allowed.

(ALKA SARIN)
JUDGE

21.01.2021
Yogesh Sharma

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO