

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

CRM-M-33246-2020 (O&M)

Date of decision : 15.01.2021

Chhatarpal and Others

... Petitioner(s)

Versus

State of Haryana and Another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Anil Kumar Sharma, Advocate for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. Robin Lohan, Advocate for respondent No.2.

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

On 16.10.2020, 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.55 dated 19.05.2020 under Sections 148, 149, 323, 325, 506 of the Indian Penal Code, 1860 registered at Police Station Rewari Sadar, District Rewari as well as all the subsequent proceedings, on the basis of compromise dated 26.05.2020 (Annexure P-2).

The learned counsel for the petitioners has contended that the petitioners and respondent No.2-complainant are members of the same family and that the FIR was a result of misunderstanding and now both the parties, in order to maintain peace and harmony, have entered into a compromise with the intervention of the

Panchayat and have resolved all their issues. Learned counsel for the petitioners has relied upon a Larger Bench judgement of this Court in “Kulwinder Singh & Ors. V/s State of Punjab & Anr.” 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. Bhupender Singh, Deputy Advocate General, Haryana has joined the session through video conferencing (VC) and accepts notice on behalf of respondent No.1-State. Mr. Robin Lohan, Advocate, who has also joined the Court proceedings through VC, accepts notice on behalf of respondent No.2-complainant. Copy of the petition has already been supplied to both the counsel.

Learned counsel appearing for respondent No.2 has reiterated that the petitioners and respondent No.2-complainant belong to the same family and the FIR was the result of some misunderstanding and now the parties have resolved all their disputes and amicably settled the matter. The compromise dated 26.05.2020 (Annexure P-2) has been entered into with their own free will and without any coercion and undue influence.

Adjourned to 15.01.2021.

Meanwhile the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 12.11.2020, 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 26.05.2020 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 report by the Chief Judicial Magistrate Ist Class has since been received wherein it has been stated that the statements of the parties have been recorded and that the parties have entered into a compromise without any coercion, undue influence and any pressure. It has further been stated that none of the parties have been declared as a proclaimed offender and there is no other case pending against the parties.

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 summarized 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 Trial Court 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.55 dated 19.05.2020 under Sections 148, 149, 323, 325, 506 of the Indian Penal Code, 1860 registered at Police Station Rewari Sadar, District Rewari, and all other consequential proceedings arising there-from, stand quashed.

The petition is accordingly allowed.

January 15, 2021

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(ALKA SARIN)

JUDGE

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