

230 (1)

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

Date of decision : 27.01.2021

1. CRM-M-34896-2020(O&M)

Nisha Kumari and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

2. CRM-M-34961-2020(O&M)

Suraj and others

... Petitioner(s)

Versus

State of Punjab and another

... Respondent(s)

CORAM: HON'BLE MRS. JUSTICE ALKA SARIN

Present: Mr. Avtar Singh Bhatti, Advocate
for the petitioners in CRM-M-34896-2020 and
for respondent No.2 in CRM-M-34961-2020.

Mr. Ritesh Pandey, Advocate,
for the petitioners in CRM-M-34961-2020 and
for respondent Nos.2 to 4 in CRM-M-34896-2020.

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

ALKA SARIN, J. (ORAL)

Heard through video conferencing.

This order shall dispose of two petitions bearing CRM-M
No.34896 of 2020 and CRM-M-34961-2020.

On 02.11.2020, the following order was passed:-

“Heard through video conferencing.

*The present petitions have been filed under Section 482 of the
Code of Criminal Procedure, 1973 for quashing of FIR No.57
dated 03.04.2020 under Sections 323, 506, 452, 148, 149 of the*

Indian Penal Code, 1860 registered at Police Station Tanda, District Hoshiarpur and DDR 34 dated 04.04.2020 under Sections 323, 325, 34 IPC (cross-case) and all other subsequent proceedings arising there-from, on the basis of compromise dated 08.10.2020.

Learned counsel for the petitioners have contended that the present cases are cross-cases which have been filed by both the parties and now with the intervention of respectables the parties in both the cases have entered into a compromise and do not want to proceed further with the cases.

*Learned counsel for the petitioners have also referred to the law laid down in the case of “**Gian Singh V/s State of Punjab & Anr.**” 2012 (10) SCC 303 and 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 CrPC to quash the proceedings in order to prevent abuse of law and secure the ends of justice.*

Notice of motion.

On the asking of the Court, Mr. Ramandeep Sandhu, Sr. DAG, Punjab, has joined the session through video conferencing and accepts notice on behalf of respondent No.1-State. Mr. Ritesh Pandey, Advocate, who has also joined the Court proceedings through video conferencing, accepts notice for respondent No.2/complainant (CRM-M-34896-2020) and Mr. Avtar Singh Bhatti, Advocate, has also put in appearance on behalf of respondent No.2/complainant in CRM-M-34961-2020 through video conferencing and accepts notice. Copies of the petitions have already been supplied to both the counsel.

List on 27.01.2021.

Meanwhile, the parties are directed to appear before the concerned CJM/Illaq Magistrate/Trial Court on 25.11.2020,

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 8.10.2020 has been freely entered into between 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. A photocopy of this order be placed on the file of the connected case.”*

The statements of the parties have since been recorded and a report dated 05.01.2021 has been received from the Judicial Magistrate First Class, Dasuya, wherein it has been stated that compromise dated 08.10.2020 is genuine and has been entered into voluntarily, without any undue influence, coercion or pressure. It has further been stated that neither any criminal case nor any proclamation proceedings, are pending against either of 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 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 petitioners 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 CrPC 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 1st Class, Dasuya 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, both the FIR No.57 dated 03.04.2020 under Sections 323, 506, 452, 148, 149 of the Indian Penal Code, 1860 registered at Police Station Tanda, District Hoshiarpur and DDR No.34 dated 04.04.2020 under Sections 323, 325, 34 IPC (cross-case) as well as all the subsequent proceedings arising there-from, stand quashed on the basis of the compromise dated 08.10.2020.

The petitions are, accordingly, allowed.

27.01.2021
Yogesh Sharma

(ALKA SARIN)
JUDGE

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