

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

**CRM-M-43733 of 2020
DECIDED ON: 5th JANUARY, 2021**

Aman Kumar

.....PETITIONER

VERSUS

State of Haryana and another

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Baljeet Beniwal, Advocate for the petitioner.

Mr. Deepak Bhardwaj, DAG, Haryana.

Mr. Hardeep S. Kasan, Advocate for respondent No. 2.

AVNEESH JHINGAN, J (ORAL)

The matter is taken up for hearing through video conference due to COVID-19 situation.

This is a petition for quashing of FIR No. 376 dated 31.8.2019, under Section 406 IPC registered at Police Station Sector 5, Panchkula. The FIR was at the instance of Ajay Kumar. It was alleged that Aman Kumar had sold a car bearing registration No. PB-65-AS-8585 by making a fake affidavit.

During the pendency of the proceedings the matter was compromised on 17.12.2020. As per the compromise the parties were known to each other and with the intervention of family member and respectables of the society, the matter was compromised. The custody of the vehicle was with Ajay Kumar.

In this petition on 23.12.2020 the parties were directed to

make statement before the Illaqa Magistrate/Trial Court.

A report is received with covering letter dated 28.12.2020. It has been reported that the compromise is genuine, made voluntarily and without any coercion.

Learned counsel for the complainant has no objection if the FIR is quashed.

As per the Full Bench judgment of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, High Court has power under Section 482 Cr.P.C. to allow the compounding of noncompoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of ***Gian Singh vs. State of Punjab and another 2012 (4) RCR (Crl.) 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 2 of 3 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.”

In the interest of justice and considering that the allegations in the FIR were with regard to sale and purchase of car and toner of dispute is of commercial in nature, the FIR mentioned above and consequent proceedings arising therefrom are quashed.

5th JANUARY, 2021

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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned Yes

Whether reportable Yes