

CRM-M-679 of 2021

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

CRM-M-679 of 2021

Date of decision:15.02.2021

Sarabjit Singh and others

... Petitioners

Vs.

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr.K.S.Sandhu, Advocate
for the petitioners.

Mr. H.S.Multani, AAG, Punjab.

Mr. Joginder Pal Devgan Advocate
for respondents No.2 to 4.

SUVIR SEHGAL, J. (Oral)

The Court has been convened through video conferencing due to Covid-19 pandemic.

This petition has been filed for quashing of DDR/General Diary No.031 dated 19.11.2019 (Annexure P-2) registered under Sections 326, 324, 323, 336, 148 and 149 of Indian Penal Code, 1860 and Sections 25, 27 of Arms Act, 1959 at Police Station Sadar Patti, District Tarn Taran registered in FIR No.0180 dated 18.11.2019 under Sections 323, 325, 148 and 149 IPC at Police Station Sadar Patti, District Tarn Taran (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 24.11.2020 (Annexure P-3) arrived at between the parties.

Counsel for the petitioner has argued that offence under Arms Act, 1954 is not made out as the allegation is that Baljit Singh/accused-petitioner No.2 fired shot in the air.

Vide order dated 08.01.2021, the trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Sub Divisional Judicial Magistrate, Patti has submitted a consolidated report, vide letter dated 05.02.2021 which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. It has been further reported that none of the accused have been declared as Proclaimed Offender.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 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 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 personnel 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.”

The same view has been reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.***

Since the statements were recorded and the learned Magistrate is satisfied with the genuineness of the compromise, no useful purpose will be served in allowing the criminal proceedings to continue. Moreover, the learned counsel for the parties are *ad idem* that in view of the settlement of dispute between the parties, the present petition deserves to be accepted.

Accordingly, this petition is allowed. DDR/General Diary No.031 dated 19.11.2019 (Annexure P-2) registered under Sections 326, 324, 323, 336, 148 and 149 of Indian Penal Code, 1860 and Sections 25, 27 of Arms Act, 1959 at Police Station Sadar Patti, District Tarn Taran

registered in FIR No.0180 dated 18.11.2019 under Sections 323, 325, 148 and 149 IPC at Police Station Sadar Patti, District Tarn Taran (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 24.11.2020 (Annexure P-3) arrived at between the parties, are quashed qua the petitioners.

Needless to say that parties shall remain bound by the terms of compromise and their statements made in the Court below.

February 15, 2021
savita

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes
Yes