

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

1. CRM-M-50937-2019 (O&M)

Chamkaur Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

2. CRM-M-50580-2019 (O&M)

Chamkaur Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

Date of decision: 02.08.2021

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Sunny Kumar Singla, Advocate
for the applicant-petitioner in both cases.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Mahipal S. Yadav, Advocate
for respondent Nos. 2 and 3.

(through video conferencing)

ARVIND SINGH SANGWAN, J. (Oral)

CRM-21786-2021 in CRM-M-50937-2019 and
CRM-21796-2021 in CRM-M-50580-2019

Prayer in both these applications is for preponing the date of
the main case.

For the reasons stated in the applications, the same are allowed.

Let both the main cases be preponed and taken up today itself.

CRM-M-50580-2019 and CRM-M-50937-2019 (O&M)

This common order shall dispose of above noted two petitions as they arise out of the same FIR and involve the same parties.

By way of the first petition, filed under Section 482 Cr.P.C., the petitioner has prayed for quashing of FIR No. 139 dated 04.11.2008, under Sections 307, 326, 325, 324, 323, 427, 148, 149 of the IPC, registered at Police Station Malerkotla, District Sangrur and all the subsequent proceedings arising therefrom, on the basis of the compromise entered into between the parties.

Prayer in the second petition is for quashing of order dated 09.12.2010, passed by the trial Court, vide which the petitioner has been declared a proclaimed offender in the proceedings under the aforesaid FIR.

Vide order dated 11.02.2020 passed in CRM-M-50937-2019, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR. The trial Court was also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

Vide order dated 11.02.2020 passed in CRM-M-50580-2019, the arrest of the petitioner was stayed, subject to the conditions provided under Section 438(2) Cr.P.C.

In pursuance to aforesaid direction, a report dated 01.04.2020

has been submitted by the Additional Sessions Judge, Sangrur, wherein it has been reported that statements of the petitioner and victims Izaz Mohd. @ Aijaz and Mohd. Akhtar/respondent Nos.2 and 3 have been recorded and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will. The trial Court has also recorded the statement of Investigating Officer, wherein he has stated that the present FIR has been registered against the petitioner only and he has been declared a proclaimed offender. He also stated that there is no other victims/complainants in the FIR other than respondent Nos. 2 and 3.

Learned counsel for the petitioner further submits that in pursuance to order dated 11.02.2020 passed in CRM-M-50580-2019, wherein the petitioner has laid challenge to order dated 09.12.2010, declaring him a proclaimed offender, the petitioner has appeared before the trial Court in terms of the compromise and has deposited the costs of Rs. 1,00,000/- in the Govt. Treasury.

Learned State counsel, on instructions from the Investigating Officer, has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

I have heard learned counsel for the parties and perused the case file.

As per the Full Bench judgment of this Court in ***Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, it is held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution

where the High Court feel that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble Apex Court in the case of ***Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543***, has held as under:-

“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 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.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of the above discussion, the petition bearing CRM-M-50937-2019 is allowed and FIR No. 139 dated 04.11.2008, under

Sections 307, 326, 325, 324, 323, 427, 148, 149 of the IPC, registered at Police Station Malerkotla, District Sangrur and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

Since the FIR itself stands quashed on the basis of the compromise and the petitioner, in terms of order dated 11.02.2020, has already appeared before the trial Court and has deposited the costs as imposed by this Court, the second petition, i.e. CRM-M-50580-2019, also stands allowed and order dated 09.12.2010, declaring the petitioner a proclaimed offender is hereby quashed.

A photocopy of this order be placed on the file of other connected case.

02.08.2021

Waseem Ansari

**(ARVIND SINGH SANGWAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No