

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-11068-2019 (O&M)
Date of decision: 19.05.2022

Gursanjiv Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Rohit Kumar, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. Nimanyu Gautam, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J.

The petitioner has prayed for quashing of FIR No.19 dated 08.03.2017 for the offences punishable under Section 304-A of the Indian Penal Code ('IPC' for short), registered at Police Station Sadar Bathinda and all the subsequent proceedings arising therefrom, on the basis of compromise effected between the parties.

Learned counsel for the petitioner submits that as per allegations in the FIR, son of complainant-respondent No.2 Balwinder Singh, namely Harman Singh had gone to play, however, he did not return in time. When

the complainant went in search of his son, he found that his dead body is lying near a tree in the field of wheat crop. On inquiry, he found that his son died due to electrocution and alleging that it was negligence of the petitioner, FIR was registered. It is further submitted that in fact, the accident occurred on account of the fact that electric transformer was installed in the fields of the petitioner and accidentally, the deceased came in contact with live electric wires, which were hanging low overhead and on that account, deceased died. It is also submitted that later on, with the intervention of respectables of the village, the complainant was satisfied that it is not fault of the petitioner and it was an accidental death due to electrocution and on the face of it, Section 304-A IPC is not made out and now the matter has been compromised. Learned counsel has relied upon a judgment of this Court passed in ***CRM-M-31517-2017 (Parveen Kumar @ Pawan Kumar Verma Vs. State of Punjab and others)***, decided on 06.11.2017, wherein a similar view has been taken.

In pursuance of the order dated 11.03.2019, the parties appeared before the trial Court for recording their statements. A report dated 25.04.2019 has been submitted by the Judicial Magistrate 1st Class, Bathinda, wherein it has been reported that statements of the petitioner and respondent No.2 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.

Learned State counsel as well as learned counsel for the private respondent have not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

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 the 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.”

After hearing learned counsel for the parties and considering the fact that it is stated in the compromise (Annexure P-2) duly signed by the parties and witnesses, the complainant inquired that death of his son is natural and happened due to electrocution, as the deceased came in contact with live electric wires, which were hanging from the transformer and there is no fault of the petitioner, as it was fault of the Electricity Department and also in view of **Parveen Kumar @ Pawan Kumar Verma**'s case (supra), present petition is allowed and FIR No.19 dated 08.03.2017 under Section 304-A IPC, registered at Police Station Sadar Bathinda and all the

subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner.

19.05.2022
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[ARVIND SINGH SANGWAN]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No