

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-14842-2019 (O&M)
Date of decision: 09.05.2022

Jagdev Singh Dhindsa

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. R.S. Bajaj, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. G.S. Jagpal, Advocate
for applicant-respondent No.2.

ARVIND SINGH SANGWAN, J.

CRM-16614-2022

For the reasons stated in the application, same is allowed and
compromise deed is taken on record as Annexure R-2/1.

CRM stands disposed of.

CRM-M-14842-2019

The petitioner has prayed for quashing of FIR No.22 dated
14.03.2005 for the offences punishable under Sections 120-B, 494, 420, 495,

506, 406, 498-A of the Indian Penal Code ('IPC' for short), registered at Police Station Ahmadgarh, District Sangrur and the order dated 16.09.2005 passed by the trial Court, vide which the petitioner was declared proclaimed offender as well as all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that the FIR was registered at the instance of respondent No.2 Harjit Singh, brother of Sukhwinder Kaur, with the allegations that marriage of his sister was solemnized with Manjit Singh, son of the petitioner in the year 1989 and two children were born out of this wedlock, however, later on, Manjit Singh had gone to USA and has not returned back. It is further submitted that in the meantime, vide judgment dated 09.03.2015, lower appellate Court acquitted co-accused of the petitioner, namely Sohan Singh, Harpreet Kaur, Gurmeet Kaur and Hartej Singh, holding that neither the offence under Section 406 IPC is made against these persons nor offence under Section 498-A IPC is made out. It is also submitted that the petitioner, who is aged about 90 years, is residing abroad and is unable to come back to India, as he is in the last leg of his life and even if he is directed to appear before the trial Court and face the trial, there is no chance of his conviction, in view of the fact that his co-accused have already been acquitted and the prosecution cannot produce any better evidence.

Learned counsel has further submitted that the matter has been amicably settled between the parties.

Learned counsel for respondent No.2 has acknowledged the

factum of compromise and has placed on record copy of compromise deed dated 26.04.2022, effected between the petitioner and respondent No.2, through his General Power of Attorney Avtar Singh Dhindsa, who is his real brother.

Learned State counsel 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 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.”

Since learned counsel for respondent No.2 himself has moved an application for placing on record compromise deed, acknowledging that there is a valid compromise between the parties, I find that it is a fit case, where proceedings before the trial Court in pursuance of impugned FIR, qua

the petitioner, are liable to be quashed.

Accordingly, present petition is allowed and FIR No.22 dated 14.03.2005 under Sections 120-B, 494, 420, 495, 506, 406, 498-A IPC, registered at Police Station Ahmadgarh, District Sangrur and the order dated 16.09.2005 passed by the trial Court, declaring the petitioner as proclaimed offender as well as all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner, however, subject to payment of costs of Rs.1.00 lac to be deposited with the Punjab and Haryana High Court Lawyers' Welfare Fund within a period of two months from today.

The trial Court will pass final order of closing of the case against the petitioner, after he produces a copy of receipt regarding depositing the costs of Rs.1.00 lac along with copy of this order.

[ARVIND SINGH SANGWAN]
JUDGE

09.05.2022
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No