

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

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CRM-M-18543 of 2022
Date of Decision: 07.09.2022

Jasbir Singh @ Jasvir Singh and others

.... Petitioners

Versus

Kashmir Singh and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR

Present: Mr. Sherbaj Singh Sandhu, Advocate
for the petitioners.

Mr. A.S. Manaise, Advocate
for the respondents.

NAMIT KUMAR, J (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of complaint No.COMI/280/2015 dated 08.12.2015 (Annexure P-1) titled 'Kashmir Singh Vs. Jasbir Singh and others' under Sections 326, 324, 452, 427, 506, 504, 500, 295-A, 382, 120-B, 148 and 149 IPC pending before the Court of learned JMIC, Gurdaspur and summoning order dated 03.11.2016 (Annexure P-2) and order dated 11.02.2020 (Annexure P-3), along with all consequential proceedings arising therefrom on the basis of a compromise dated 12.03.2022 (Annexure P-4) arrived at between the parties.

Learned counsel for the petitioners submits that petitioner No.4 is residing abroad who has been wrongly declared as proclaimed offender as

he was not properly served at his address abroad. He further submits that petitioner No.4 has given his special power of attorney to his father, namely, Jasbir Singh @ Jasvir Singh (petitioner No.1), who has compromised the matter on his behalf and has appeared in the Court and recorded the statement in terms of compromise. He further submits that the dispute pertains to partition of land and litigation was pending between the parties and now all disputes have been settled amicably and they have decided to end all their litigations and live peacefully.

During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise by this Court.

In compliance thereof, report from Chief Judicial Magistrate, Gurdaspur, has been received through District and Sessions Judge, Gurdaspur, with statements of parties, in which, it has been mentioned that the compromise is genuine and there was no undue influence or coercion from any side.

Reliance is placed upon the case '**Rajesh Kumar and others Versus State of Haryana and another**' 2006(4) RCR (Criminal) 317 and relevant portion of the same is reproduced as under:-

“In view of the facts, merely because the challan was filed arbitrarily by the prosecuting agency, it cannot be said that in given circumstances the FIR cannot be quashed. I am of the opinion that continuation of the proceedings for the alleged occurrence, which took place in the year 1993 in which the matter was compromised between the parties, will be an abuse of the process of the Court.”

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.

An identical question came to be decided by Hon'ble Supreme Court in case **Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543.** Having interpreted the relevant provisions, it was ruled 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 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 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 recently reiterated by the Apex Court in case **Narinder Singh and others Vs. State of Punjab and another,** 2014(2) RCR (Criminal) 482.

Having regard to the contentions of learned counsel for the parties and the fact that both the parties to the litigation have entered into compromise and on that basis, the present petition under Section 482 Cr.P.C. has been filed for quashing the present complaint. The compromise has been arrived at with the intervention of the respectables and family members and the parties have decided to keep harmony between them and to live peacefully in future. Hence, it would be in the interest of justice that parties are allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

In view of the aforesaid report of the learned Chief Judicial Magistrate, Gurdaspur accompanied by statements of both the parties, complaint No.COMI/280/2015 dated 08.12.2015 (Annexure P-1) titled 'Kashmir Singh Vs. Jasbir Singh and others', summoning order dated 03.11.2016 (Annexure P-2) and order dated 11.02.2020 (Annexure P-3),

along with all consequential proceedings arising therefrom are hereby quashed, on the basis of compromise, *qua* the petitioners only.

The petition stands disposed of accordingly.

07.09.2022
D.Bansal

(NAMIT KUMAR)
JUDGE

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