

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

CRM-M-27979-2021 (O&M)

Date of decision: 12.05.2022

Tejinder Singh

... Petitioner

Vs.

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Ms. Sukhpreet Kaur, Advocate
for the petitioner.

Mr. Joginder Pal Ratra, DAG, Punjab.

Mr. C.S Singh, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (ORAL)

CRM-17096-2022

Notice of the application to Advocate General, Punjab.

On asking of the Court, Mr. Joginder Pal Ratra, DAG, Punjab
accepts notice of this application on behalf of respondent-State while Mr. C.S.
Singh accepts notice on behalf of respondent No.2 and they have no objection.

Accordingly, this application is allowed and Sections 326, 325 IPC
are added in the head note and prayer clause of the main petition.

Registry is directed to carry out necessary corrections accordingly.

CRM stands disposed of.

CRM-M-27979-2021

Prayer in this petition is for quashing of FIR No.10 dated 01.03.2013 under Sections 323, 324, 34, 326, 325 of the Indian Penal Code (for short 'IPC'), registered at Police Station Verowal, District Tarn Taran and all the subsequent proceedings arising therefrom, including the order dated 06.10.2014, declaring the petitioner as proclaimed offender.

Learned counsel for the petitioner submits that the petitioner was residing abroad, when the FIR was registered in the year 2013 and now a compromise has been effected between the parties on 29.06.2021. In the meantime, two co-accused of the petitioner, namely Lakhwinder Singh and Lovejeet Singh, who faced full length trial, stand acquitted by the Sub Divisional Judicial Magistrate, Khadur Sahib, vide judgment dated 10.04.2015, as the prosecution witnesses have not supported the case. It is further submitted that since aforesaid two co-accused stand acquitted, there is no possibility for the prosecution to bring any fresh evidence.

Vide order dated 20.07.2021, a direction was issued to the trial Court/Illaq Magistrate to record statements of the parties regarding validity and genuineness of the compromise.

The trial Court submitted a report dated 13.09.2021, in which it is stated that the compromise has been effected between the parties of their own free will and without coercion. It is further stated that petitioner Tejinder Singh was declared proclaimed offender on 06.10.2014.

Learned counsel has relied upon Division Bench judgment of this Court in **Sudo Mandal @ Diwarak Mandal Vs. State of Punjab, 2011 (3) RCR (Crl.) 453**, to submit that where the co-accused has been acquitted, FIR can be quashed. It is submitted that on account of causing delay in disposal of the trial, as the FIR pertains to the year 2013, the petitioner is ready to deposit the costs of Rs.1.00 lac with the Punjab and Haryana High Court Lawyers Welfare Fund.

Learned State counsel as well as learned counsel for respondent No.2 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.”

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 what has been discussed hereinabove, present petition is

allowed and FIR No.10 dated 01.03.2013 under Sections 323, 324, 34, 326, 325 IPC, registered at Police Station Verowal, District Tarn Taran and all the subsequent proceedings arising therefrom, including the order dated 06.10.2014, 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 deposit of costs of Rs.1.00 lac with the Punjab and Haryana High Court Lawyers Welfare Fund.

The trial Court will finally dispose of the case, after production of the receipt regarding deposit of costs of Rs.1.00 lac.

[ARVIND SINGH SANGWAN]
JUDGE

12.05.2022
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Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No