

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

CRM-M-28174-2021(O&M)
Date of decision: 10.01.2022

Gurpreet Singh @ Gora and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. L.S. Mann, Advocate for the petitioners.

Mr. Davinder Bir Singh, DAG Punjab.

Mr. L.S. Lakhanpal, Advocate for
Ms. Chhavi Sharma, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

Case is taken up for hearing through video conferencing.

The petitioners have filed present petition under Section 482 Cr.P.C., for quashing of FIR No.94 dated 30.09.2013 under Sections 324 and 34 IPC, 1860, registered at Police Station Nurmahal, District Jalandhar City, Annexure P-1, along with all consequential proceedings arising therefrom, on the basis of compromise dated 20.10.2013(Annexure P-2), arrived at between the parties.

On 30.09.2021, learned counsel for the petitioners contended that compromise, Annexure P-2, was arrived at between the parties on 20.10.2013 and has been duly signed by the complainant, Tarsem Singh, as well as some witnesses though it does not bear the signatures of both the

accused, who are petitioners before this Court. Counsel submits that the complainant expired in the year 2016, but petition seeking quashing of the FIR on the basis of compromise could not be filed during his lifetime. He submits that after completion of investigation, a report recommending cancellation of the FIR was filed but it was not accepted by the trial court and vide order dated 27.09.2019, Annexure P-3, the matter was sent back to the Investigating Agency for further investigation. He submits that the complainant was unmarried at the time of his death and his sister has been impleaded as respondent No.2, though besides her, the deceased left behind two brothers, who are living abroad and not on talking terms with the family of the deceased.

Status report by way of affidavit dated 07.01.2022 of the Deputy Superintendent of Police, Sub-Division Nakodar, District Jalandhar, submitted by the learned State counsel, is taken on record.

Learned State counsel assisted by the learned counsel for respondent No. 2 submits that the FIR was lodged by Tarsem Singh in the year 2013 against the petitioner. During investigation, Sarpanch-Kulwinder Kumar in his statement stated that the complainant had died 6 years ago and he was unmarried and respondent No. 2-Mahinder Kaur, who is sister of Tarsem Singh (since deceased) has also not disputed the factum of compromise. At one stage cancellation report was also filed by the Investigating Agency, but the same was not accepted by the learned trial Court and sent back to the Investigating Agency for further investigation. The matter is still pending for further investigation.

I have heard the learned counsel for the parties.

The petitioners have been facing the agony since 2013. The complainant had expired in the year 2016. The cancellation report filed by the investigating agency was not accepted by the learned trial Court and the case is still under investigation. The factum of compromise is not disputed by respondent No. 2, real sister of the complainant.

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.

The Hon'ble Apex Court in the case of Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543 has held 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 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 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 reiterated by Hon'ble the Apex Court in case **Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.**

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.

Accordingly, the petition is allowed. FIR No.94 dated 30.09.2013 under Sections 324 and 34 IPC, 1860, registered at Police Station Nurmahal, District Jalandhar City, Annexure P-1, along with all consequential proceedings arising therefrom, are hereby quashed qua the petitioners, on the basis of compromise dated 20.10.2013(Annexure P-2), arrived at between the parties, subject to depositing the costs of Rs.10,000/- by the petitioners with the Lawyers' Welfare Fund, Punjab and Haryana High Court, Chandigarh.

Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.

(HARNARESH SINGH GILL)
JUDGE

10.01.2022
Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No