

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-54357-2018

Date of Decision: 22.08.2022

Satish Kumar and others

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. SPS Chakkal, Advocate for the petitioners.

Mr. Vinay Kumar Gupta,
Assistant Advocate General, Punjab.

Mr. S.S. Sarwara, Advocate for respondent No. 2 to 5.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petition under Section 482 Cr.P.C., for quashing FIR No. 55 dated 26.04.2018 (Annexure P-1), registered under Sections 323, 324, 452 and 506 read with Section 34 IPC and Section 4 of the SC and ST (Prevention of Atrocities) Act, 1989, at Police Station Nangal, District Roopnagar and all the consequential proceedings arising therefrom, on the basis of compromise dated 24.11.2018 (Annexure P-3) effected between the parties.

Pursuant to the order dated 03.03.2021 passed by a co-ordinate Bench of this Court, the parties appeared before the learned Judicial Magistrate Ist Class (D), Nangal, to get their statements recorded.

Learned Judicial Magistrate Ist Class (D), Nangal, submitted her report

along with statements of the parties vide letter No. 59 dated 28.04.2021 duly forwarded by learned District and Sessions Judge, Rupnagar, vide Endst. No. 4588 dated 30.04.2021.

According to the report, learned Judicial Magistrate Ist Class (D), Nangal, is satisfied that the compromise effected between the parties is appears to be *bona fide*, voluntary, genuine, lawful and without any kind of pressure, undue influence, coercion and fear from any side.

Learned counsel for the petitioner submits that this is a case of version and cross-version. The proceedings in the cross-case registered against the complainant party vide DDR No. 34 dated 27.04.2018, under Sections 323, 342, 382, 506 read with Section 34 IPC, Police Station Nanagl, District Roopnagar, in case FIR No. 55 dated 26.04.2018 (Annexure P-1), have been quashed by a co-ordinate Bench of this Court vide order dated 03.03.2021 passed in CRM-M-54358-2018, 'Balwinder Kumar and others Vs. State of Punjab and others'. Thus, he prays that the instant petition may be allowed in the same terms.

On the other hand, learned counsel for the State submits that the relief claimed by the petitioners in the instant petition cannot be granted as some of the offences constituted against the petitioners, inasmuch as, those under Section 452 IPC and Section 4 of the SC and ST (Prevention of Atrocities) Act, 1989, are not compoundable.

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondents No. 2 to 5 and gone through the relevant record.

It is now well settled that the High Court has inherent power

to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to ***Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482, State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255, Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052 and Gian Singh Vs. State of Punjab and another : 212(4) RCR (Criminal) 543.***

It is apt to extract the relevant paragraph of the verdict made by the Hon'ble Apex Court in ***Gian Singh's case (supra)***.

“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 offences under Section 452 IPC and under Section 4 of ST and ST (Prevention of Atrocities) Act, 1989, do not, prima facie, appear to be so grave and nor are so heinous, so as to attract the rigour of the embargo (supra) foisted upon the High Court in verdict (supra). Therefore, the settlement/compromise, as validly entered into, enjoins its being revered. Consequently, even, if, the aforesaid offences are non-compoundable, this Court does not deem it fit to accept the contention(s) of the learned State counsel, that this Court, may not through re-coursing the mandate of Section 482 Cr.P.C., quash the FIR when there are remote and bleak chances of conviction of the petitioners.

Furthermore, an immense support to the aforesaid view, is also derived from the judgment rendered by this Court in case titled as ***Vinod @ Boda and others versus State of Haryana and another, 2017 (1) R.C.R. (Criminal) 571***, wherein also, the above view has been reiterated.

Thus, considering the report of learned Judicial Magistrate Ist Class (D), Nangal, dated 28.04.2021 and the fact that the compromise will bring peace and harmony between the parties, aforesaid FIR No. 55 dated 26.04.2018 (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed, qua the petitioners only.

Disposed of, accordingly

August 22, 2022
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No