

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-28752-2022

Date of Decision: 28.10.2022

Jagnandan Singh @ Sarna and others

.... Petitioners

Versus

State of Haryana and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. S.S. Sidhu, Advocate for the petitioners.

Mr. Gaurav Bansal, Assistant Advocate General, Haryana.

Mr. Lalit Goyal, Advocate for respondents No. 2 and 3.

ASHOK KUMAR VERMA, J. (ORAL)

Reply dated 25.10.2022, filed by way of affidavit of Sh. Yad Ram, Deputy Superintendent of Police, Kalanwali, District Sirsa, on behalf of respondent No. 1 is taken on record.

The petitioners have filed the present petition under Section 482 Cr.P.C., for quashing FIR No. 69 dated 26.05.2015 (Annexure P-1) registered under Sections 148, 149, 323, 324, 341, 506 and 307 IPC (after investigation, Section 307 IPC was deleted and Sections 325 and 326 IPC were added) and Section 3 of the SC and ST (Prevention of Atrocities) Act, 1989 (hereinafter referred to as- 'the 1989 Act') at Police Station Odhan, District Sirsa and all the consequential proceedings arising therefrom, on the basis of compromise effected between the parties.

Pursuant to the order dated 08.07.2022 passed by a co-ordinate Bench of this Court, the parties appeared before the learned Additional District and Sessions Judge, Sirsa, to get their statements recorded. Learned Additional District and Sessions Judge, Sirsa, submitted his report along with statements of the parties vide letter No. 712 dated 07.09.2022 duly forwarded by learned District and Sessions Judge, Sirsa, vide letter No. 5654 dated 07.09.2022.

According to the report, Additional District and Sessions Judge, Sirsa, is satisfied that the compromise effected between the parties is genuine and voluntarily and it was made free from any threaten, pressure or under influence and with free will of complainant/injured/witness. It has also been reported that the third injured, namely, Mukhtiar Singh, has died.

The aforesaid factum of death of third injured-Mukhtiar Singh, has also been acknowledged in the reply dated 25.10.2022, filed on behalf of respondent No. 1-State of Haryana, in Court today. In para 6 of the said reply, it has been mentioned that cause of death of injured Mukhtiar Singh, is chronic lung disease which is ante-mortem in nature which is sufficient to cause death in ordinary course of life and nature.

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondents No. 2 and 3 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, Gian Singh Vs. State of Punjab and another : 212(4) RCR (Criminal) 543 and Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052.***

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.”

Further more, a Full Bench of this Court, in ***Kulwinder Singh and others case (supra)***, has held that the compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of Cr.P.C is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”. Disputes which have their genesis not only in matrimonial discord but others as well, such compromise deserves to be accepted. It is further held as under:-

“ The only inevitable conclusion from the above discussion is that there is no statutory bar under the

Cr.P.C which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C in order to prevent the abuse of law and to secure the ends of justice.”

Thus, considering the report of learned Additional District and Sessions Judge, Sirsa dated 07.09.2022 and the fact that the compromise will bring peace and harmony between the parties, aforesaid FIR No. 69 dated 26.05.2015 (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed, qua the petitioners only, subject to deposit of Rs.15,000/- as costs with the 'Poor Patient Welfare Fund of Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh' by the petitioners within a period of four weeks' from today. The petitioners shall file the receipt qua deposit of the said amount in the Registry, within the stipulated time, failing which this petition shall be deemed to be dismissed.

Disposed of, accordingly.

October 28, 2022
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(ASHOK KUMAR VERMA)
JUDGE

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