

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

1. CRM-M-34355-2021 (O&M)

Gursahib Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

2. CRM-M-34229-2021 (O&M)

Gurjant Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

Date of decision: 15.03.2022

CORAM:- HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present:- Mr. Vikasdeep Singh, Advocate
for the petitioners in CRM-M-34355-2021;
for respondents No. 2 and 3 in CRM-M-34229-2021.

Mr. Vikas Gupta, Advocate
for the petitioners in CRM-M-34229-2021 ;
for respondent Nos. 2 to 5 in CRM-M-34355-2021.

Mr. Joginder Pal Ratra, DAG, Punjab.

ARVIND SINGH SANGWAN, J. (Oral)

This common order shall dispose of above noted two petitions
as they arise out of the version and its cross version.

CRM-9195 & 9198-2022

Prayer in these applications is for preponing the date of the main cases, which are fixed for 28.09.2022.

For the reasons stated in the applications, the same are allowed. Let the main cases be preponed and taken up today itself.

Main cases

These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 100 dated 09.11.2020, registered under Sections 307, 323, 324, 341, 148, 149, 308 (added later on) of the IPC and its cross version registered in DDR No. 27 dated 09.11.2020, under Sections 323, 324, 148, 149 of the IPC at Police Station Kabirpur (Ahalikalan), District Kapurthala, along with all consequential proceedings arising therefrom, on the basis of compromise entered into between the parties.

Vide orders dated 25.08.2021, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR.

A joint report dated 20.12.2021 has been submitted by the Judicial Magistrate First Class, Sultanpur Lodhi, wherein it has been reported that statement of both the sets of petitioners and complainants have been recorded and statements made by the parties in the Court reveal that

they have voluntarily entered into a compromise and the Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will. It is further reported that there are total 09 accused persons in the FIR case, who are petitioners herein and there are 06 accused persons (petitioners in cross version) in the cross version and none of the accused, in both cases, has been declared a proclaimed offender.

Learned counsel for the petitioners in CRM-M-34355-2021 submits that there is no specific opinion of the doctor that the injuries were dangerous to life, therefore, the offence under Section 307 IPC is not made out.

Learned State counsel has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to their differences.

I have heard learned counsel for the parties and perused the case file.

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 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 the above discussion, these petitions are allowed and FIR No. 100 dated 09.11.2020, registered under Sections 307, 323, 324, 341, 148, 149, 308 (added later on) of the IPC and its cross version registered in DDR No. 27 dated 09.11.2020, under Sections 323, 324, 148, 149 of the IPC at Police Station Kabirpur (Ahalikalan), District Kapurthala and all the subsequent proceedings arising therefrom are ordered to be quashed qua both the sets of petitioners herein, subject to deposit of costs of Rs. 5,000/- by each set of the petitioners with the District Legal Services

Authority, Kapurthala.

A photocopy of this order be placed on the file of other connected case.

15.03.2022

Waseem Ansari

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No