

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

CRM-M-34980-2021 (O&M)

Date of decision: 01.06.2022

Lakhwinder Singh and another

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Parminder Singh, Advocate for the petitioners.

Mr. Surender Singh, AAG Haryana.

Mr. D.S. Nigha, Advocate for respondent No. 2.

HARNARESH SINGH GILL, J. (ORAL)

CRM-20191-2022

Prayer in the present application is for preponement of the main case, which is fixed for 20.09.2022.

Learned counsel for the applicant-petitioners submits that the statements of the parties have already been recorded in the present case.

Notice of the application.

On the asking of this Court, learned counsel for respondents, accept notice and submit that they have no objection, if the application is allowed.

In view of the above, the application is allowed and the main case is preponed from 20.09.2022 to that of today and the same is taken on the Board for hearing.

Main case:

The petitioners have filed present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.153 dated 01.07.2021, registered under Sections 285, 307, 323, 506 IPC read with Section 34 IPC and Sections 25 and 27 of the Arms Act, at Police Station Ismailabad, District Kurukshetra, and all subsequent proceedings arising therefrom on the basis of compromise dated 19.08.2021(Annexure P-2).

Learned counsel for the petitioner submits that the licenced weapon of the petitioner was used by co-accused Uttamjit Singh only when the other party with weapons had tress-passed into the house of the petitioner and the said act was done in self defence; that the shot was fired in the air and that there was no fire arm injury.

Vide orders dated 26.08.2021 passed by a Coordinate Bench, the Illaqa Magistrate/trial Court was directed to record the statements of all concerned parties with regard to the genuineness and validity or otherwise of the compromise.

In compliance thereof, the learned Judicial Magistrate 1st Class, Pehowa, has submitted a report vide letter dated 23.09.2021, which indicates that the parties appeared before him and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is with free will and without any pressure or coercion.

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.153 dated 01.07.2021, registered under Sections 285, 307, 323, 506 IPC read with Section 34 IPC and Sections 25 and 27 of the Arms Act, at Police Station Ismailabad, District Kurukshetra, and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners, on the basis of compromise dated 19.08.2021(Annexure P-2), subject to depositing the costs of Rs.10,000/- by the petitioners with the Poor Patient Welfare Fund (PPWF) of Post Graduate Institute of Medical Education & Research Chandigarh, 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

01.06.2022

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No