IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-44202-2019
Date of Decision: 30.08.2022

Jose Kottaram and another **--Petitioners**

Versus

State of Punjab and others **--Respondents**

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Pardhuman Garg, Advocate
for the petitioners.

Mr. Parneet Singh Pandher, AAG, Punjab.

Mr. J.S. Thakur, Advocate
for complainants.

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RAJESH BHARDWAJ.J (Oral)

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.0009, dated 02.02.2019, under Section 509 of IPC and Section 354-A of IPC was added later on registered at Police Station Amloh, Tehsil Amloh, District Fatehgarh Sahib on the basis of compromise dated 02.08.2019 (Annexure P-2).

FIR in question was got registered by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute, which is apparent from Compromise Deed, annexed as Annexure P-2. On the basis of the compromise, the petitioners are invoking the inherent power of this Court by praying that continuation of these proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

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This Court vide order dated 19.04.2022 directed the parties to appear before the Illaqa/Duty Magistrate for recording their statements, as contended before the Court, and the Illaqa/Duty Magistrate was also directed to send its report.

In pursuance to the same, learned Judicial Magistrate Ist Class, Amloh has sent his report dated 13.06.2022 to this Court. With the report he has also annexed the photocopies of statement of complainants/respondents Nos. 2 to 9 (Jaspreet Kaur, Rosa Soffat @ Roma Soffat, Meena, Prem Sharma, Divya Mehta, Anisha, Shamli Dass and Paramjit Kaur) and statement of petitioner namely, Justin Joseph Kottaram recorded on 10.05.2022 and also statement of SI Kuldeep Singh recorded on 11.05.2022. On the basis of the statements, learned Judicial Magistrate Amloh has concluded in the report that the parties have arrived at a compromise voluntarily, without any coercion or undue influence. It is further mentioned that accused was never declared as proclaimed offender. It is further mentioned therein that accused Jose Kottaram died on 20.04.2022.

In view of this present petition survives only qua petitioner No.2 Justin Jospeh Kottaram.

I have heard learned counsel for the parties, perused the record and the report sent by learned Judicial Magistrate Ist Class, Amloh.

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

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Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466;*** **B.S.Joshi and others** vs **State of Haryana and another (2003) 4 Supreme Court Cases 675** followed by this Court in Full Bench case of **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052** have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

> *"61. 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*

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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 pre-dominatingly civil flavour stand on a 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, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, 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 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 the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court, it is apparent that when the parties have

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entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.0009, dated 02.02.2019, under Section 509 of IPC and Section 354-A of IPC was added later on registered at Police Station Amloh, Tehsil Amloh, District Fatehgarh Sahib 02.08.2019 along with consequential proceedings are hereby quashed qua the petitioner No.2 namely Justin Jospeh Kottaram on the basis of compromise. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

(RAJESH BHARDWAJ)
JUDGE

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

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