

CRM-M-9668-2020

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

CRM-M-9668-2020

Date of decision: 01.09.2023

NITISH GHAI

...Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Manpreet Singh, Advocate for
Mr. Gagandeep Singh Virk, Advocate,
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

Mr. Vikas Prakash, Advocate for
Ms. Prabhjot Kaur Sodhi, Advocate,
for respondent No.2.

HARNARESH SINGH GILL, J. (ORAL)

1. This petition has been filed for quashing of FIR No.184 dated 05.06.2018, registered under Sections 420 and 406 IPC and Sections 10 and 24 of the Immigration Act and Section 13 of Punjab Prevention of Human Smuggling Act, 2012, at Police Station Division No.5, Ludhiana, and all the subsequent proceedings arising therefrom, on the basis of the compromise/affidavit (Annexure P-2).

2. Status report dated 24.08.2023 by way of affidavit of ACP, Civil Lines, Ludhiana, filed in the Court today, is taken on record. Copy thereof has been supplied to the counsel opposite. As per the same, the petitioner is also involved in other cases.

3. Vide order dated 26.04.2023 passed by a Coordinate Bench,

CRM-M-9668-2020

the trial Court/Illaqa Magistrate had been directed to record the statements of the parties with regard to the genuineness and authenticity of the compromise.

4. In compliance thereof, learned Judicial Magistrate Ist Class, Ludhiana, has submitted a report, vide letter dated 17.08.2023, which indicates that the parties had appeared before the Magistrate 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 genuine and without any pressure or coercion from any corner.

5. 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.

6. 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

CRM-M-9668-2020

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 pre-dominantly 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.”

7. The same view has also been reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and***

CRM-M-9668-2020

another, 2014(2) RCR (Criminal) 482.

8. 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.

9. Accordingly, the present petition is allowed. FIR No.184 dated 05.06.2018, registered under Sections 420 and 406 IPC and Sections 10 and 24 of the Immigration Act and Section 13 of Punjab Prevention of Human Smuggling Act, 2012, at Police Station Division No.5, Ludhiana, and all the subsequent proceedings arising therefrom, are quashed qua the petitioner on the basis of compromise/affidavit (Annexure P-2), subject to him depositing the costs of Rs.20,000/- with the Poor Patients' Welfare Fund, Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh.

10. Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.

01.09.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No