

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-27266-2018 (O&M)
Date of decision: 01.02.2023

Rajesh Arora

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present: Mr. Harkirat S. Jagdev, Advocate for
Mr. Alok Jagga, Advocate
for the petitioner.

Mr. Ajit Singh Natt, AAG, Punjab.

Mr. I.P. Singh, Advocate
for respondent No.2-Bank.

ARVIND SINGH SANGWAN, J.

CRM-34990-2022

For the reasons stated in the application, same is allowed and copy of NOC dated 09.09.2022 issued by respondent No.2-Bank is taken on record as Annexure in continuation of the Annexures already attached with the main petition.

CRM stands disposed of.

CRM-M-27266-2018

The petitioner has prayed for quashing of FIR No.133 dated 05.04.2018 for the offences punishable under Sections 406, 420, 201 of the Indian Penal Code ('IPC' for short), registered at Police Station Shimlapuri, District Ludhiana and all the subsequent proceedings arising therefrom.

Learned counsel for the petitioner submits that in fact, on account of matrimonial dispute between the petitioner and his wife, the amount could not be paid in time and impugned FIR was registered with the allegations that the petitioner has sold the hypothecated goods.

Learned counsel for respondent No.2-Bank has not disputed that entire outstanding loan amount has been paid to the respondent-Bank and account of the petitioner stands closed.

Learned State counsel has not disputed the factual position.

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 the 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 petitioner has paid the entire loan amount, no useful purpose would be served in allowing the criminal proceedings to continue against him.

In view of what has been discussed hereinabove, present petition is allowed and FIR No.133 dated 05.04.2018 under Sections 406, 420, 201 IPC, registered at Police Station Shimlapuri, District Ludhiana and all the subsequent proceedings arising therefrom are ordered to be quashed qua the petitioner, however, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, concerned.

[ARVIND SINGH SANGWAN]
JUDGE

01.02.2023
vishnu

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No