

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-18519-20219

Date of Decision: 22.02.2023

Ashok Kumar Bansal

.... Petitioner

Versus

State of Punjab and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Malkeet Singh, Advocate for the petitioner.

Mr. G.S. Sandhu, Deputy Advocate General, Punjab.

None for respondent No. 2.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioner has filed the present petition under Section 482 Cr.P.C., for quashing FIR No. 106 dated 05.04.2018 (Annexure P-1), registered under Sections 306 IPC at Police Station Phillaur, District Jalandhar (Rural) and all the consequential proceedings arising therefrom, on the basis of affidavit of respondent No. 2 dated 25.03.2019 (Annexure P-2).

Pursuant to the order dated 21.05.2019 passed by the Coordinate Bench of this Court, the parties have appeared before the learned Sub Divisional Judicial Magistrate, Phillaur, to get their statements recorded. Learned Sub Divisional Judicial Magistrate, Phillaur, submitted his report along with of the parties vide letter No. 3451 dated 24.07.2019 duly forwarded by learned District and

Sessions Judge, Jalandhar, vide letter No. 2125 G/JRK dated 25.07.2019.

I have heard learned Counsel for the parties and gone through the relevant record.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where 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. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to *Narinder Singh vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482*, *State of Madhya Pradesh vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255*

and ***Kulwinder Singh and others vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052.***

The Full Bench of this Court, in ***Kulwinder Singh and others case (supra)***, has held that the compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of Cr.P.C is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”. Disputes which have their genesis not only in matrimonial discord but others as well, such compromise deserves to be accepted. It is further held as under :-

“ The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C in order to prevent the abuse of law and to secure the ends of justice.”

In the case of **Madan Mohan Abbot vs. State of Punjab** **2008 (4) S.C. Cases 582**, the Apex Court emphasised and advised as under:-

“ We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the

compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

This Court in ***Sucha Singh and others vs. State of Punjab and another, 2011 (7) RCR (Criminal) 2546***, had quashed an FIR, which was registered under Section 306 IPC. In that case, mother of the deceased had given an affidavit stating therein that the deceased had two sons, aged about 10 and 12 years, who were living with their father Sukhwinder Singh and that the matter had been resolved keeping in mind the future of the children of deceased.

Reference at this stage can further be made to judgment of Hon'ble the Supreme Court in a case of ***Gian Singh vs. State of Punjab and anr., 2012 (4) RAJ 549***, wherein also it has been held that proceedings may be quashed having overwhelmingly and pre-dominatingly civil flavour such as offence arising from commercial financial, mercantile, civil, partnership or such like transaction or the offences arising out of matrimony relating to dowry etc. of the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute.

According to the report, learned Sub Divisional Judicial

Magistrate, Phillaur, is satisfied that the compromise effected between the parties appears to be genuine and valid.

Considering the report of learned Sub Divisional Judicial Magistrate, Phillaur dated 24.07.2019 and the fact that the compromise will bring peace and harmony between the parties, aforesaid FIR No. 106 dated 05.04.2018 (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed, qua the petitioner only.

Disposed of, accordingly

February 22, 2023
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(ASHOK KUMAR VERMA)
JUDGE

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