

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

277

CRM-M-24135-2022 (O&M)

Date of Decision: 12.01.2023

Amarjit Kaur and another

.... Petitioners

Versus

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: - Mr. Arpandeep Narula, Advocate for the petitioners.

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

Mr. Upasan Gandhi, Advocate for

Mr. Gagan Oberoi, Advocate for respondents No. 2 and 3.

ASHOK KUMAR VERMA, J. (ORAL)

The petitioners have filed the present petition under Section 482 Cr.P.C., for FIR No. 61 dated 09.07.2015 (Annexure P-1) registered under Sections 342, 323, 606 and 382 read with Section 34 IPC at Police Station Cantt. Bathinda and all the consequential proceedings arising therefrom, on the basis of compromise dated 18.05.2022 (Annexure P-2).

Pursuant to the order dated 31.05.2022, passed by this Court, the parties appeared before the learned Additional Chief Judicial Magistrate, Bathinda, to get their statements recorded. Learned Additional Chief Judicial Magistrate, Bathinda, has submitted her report along with statements of the parties vide letter No. 71 dated 14.06.2022 duly forwarded by the learned District and Sessions Judge, Patiala, vide

letter No. 989 dated 15.06.2022.

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 ***Gian Singh vs. State of Punjab and anr., 2012 (4) RAJ 549: 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 judgment of this Court in ***Kulwinder Singh's case (supra)*** categorically held that the High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and same is not confined to matrimonial disputes alone. The relevant para is extracted below :-

“29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.”

In ***Gian Singh's case (supra)***, the Hon'ble Supreme Court has also discussed the powers of High Court under Section 482 Cr.P.C. and the relevant portion reads 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."

According to the report, learned Additional Chief Judicial Magistrate, Bathinda, is satisfied that the compromise effected between the parties is genuine, voluntary and out of their free will and same is not the result of any pressure, undue influence or coercion in any manner

Considering the report of learned Additional Chief Judicial Magistrate, Bathinda and the fact that the compromise will bring peace and harmony between the parties, aforesaid FIR No. 61 dated 09.07.2015 (Annexure P-1) and all subsequent proceedings arising therefrom, are quashed, qua petitioners, only.

Disposed of, accordingly.

January 12, 2023
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(ASHOK KUMAR VERMA)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No