

2023:PHHC:129587

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M No.49552 of 2023 (O&M)
Decided on: 06.10.2023

Nitin and another

....Petitioners

Versus

State of Haryana and another

....Respondents

CORAM: HON'BLE MR JUSTICE ARVIND SINGH SANGWAN

Present : Mr. Brijender Kaushik, Advocate
for the petitioners.

Mr. Sandeep Bhardwaj, Advocate
for respondent No.2.

ARVIND SINGH SANGWAN, J. (Oral)

The petitioners have prayed for quashing of FIR No.162 dated 11.07.2017 for offence punishable under Sections 120-B, 406, 420, 419, 467, 468, 471, 201 IPC registered at Police Station Mullana, District Ambala, and all other consequential proceedings arising therefrom, on the basis of the compromise effected between the parties.

Counsel for the parties are ad idem that the matter has already been settled between the parties as per the compromise dated 05.06.2023 (Annexure P-2).

Counsel for the petitioners has submitted that no other criminal case is pending between the parties and none of the petitioner has been declared as proclaimed offender.

Counsel for respondent No.2 has not disputed the fact that the parties have arrived at a settlement with an intent to give burial to

their differences.

Considering the fact that the FIR qua some other accused namely Deepak Kumar, Gurmitha Singh, Gautam, Amit Kumar Sharma, Rahul Sharma, Amit Sharma and Neeraj, has already been quashed on the basis of the compromise vide order dated 19.11.2018 passed by this Court in CRM-M No.16658 of 2018. The operative part of the said order, reads as under:-

“Prayer in this petition is for quashing of FIR No. 162 dated 11.07.2017 under Sections 120-B, 406, 420, 419, 467, 468, 471 and 201 IPC, registered at Police Station Mullana, District Ambala, on the basis of compromise dated 05.04.2018 (Annexure P2).

Vide order dated 07.08.2018, the parties were directed to appear before the trial Court/Illaq Magistrate for recording their respective statements. Respondent No.2/complainant-Sham Murari has made a statement that he has compromised the matter with seven accused persons i.e. the present petitioners, as per compromise Ex.PX and he does not want to pursue the case against them. Similar statement has been made by the petitioners that the compromise has been effected voluntarily. Respondent No.2/complainant further stated in the statement that he has not effected compromise with accused-Nitin and Adhiraj K.C.

The trial Court has also recorded the statement of ASI Khushlpal, who stated that only the complainant is the victim as per the investigation and no accused person is a proclaimed offender. He has also placed on record status report Ex.PY.

The trial Court has submitted a report dated 29.08.2018 and as per the compromise deed Ex. PX, the parties have entered into a compromise without any

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pressure or coercion and only respondent No.2- Sham Murari is the complainant in the present FIR.

As per the Full Bench judgment of this Court in Kulwinder Singh and others Vs. State of Punjab, 2007 (3) RCR (Criminal) 1052 and also in view of the judgment of Hon'ble the Apex Court rendered in Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543, the present petition is allowed. FIR No. 162 dated 11.07.2017 under Sections 120-B, 406, 420, 419, 467, 468, 471 and 201 IPC, registered at Police Station Mulana, District Ambala, on the basis of compromise dated 05.04.2018 (Annexure P2) and all the subsequent proceedings arising therefrom are ordered to be quashed qua petitioners, namely, Deepak Kumar, Gurmitha Singh, Gautam, Amit Kumar Sharma, Rahul Sharma, Amit Sharma and Neeraj.”

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 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:-

“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.

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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.”

In the aforesaid case i.e. CRM-M No.16658 of 2018, the parties including the complainant were directed to appear before the

Illaqa Magistrate to record their statements and record the satisfaction of the trial Court that the compromise is genuine and not an outcome of any threat or coercion, a report was received on 29.08.2018 that the matter has been settled between the parties.

As the present petition has been filed by the remaining co-accused namely Nitin and Adhiraj K.C. and the learned counsel appearing for the complainant has acknowledged that there is a compromise between the parties, the issuance of notice of motion to State of Haryana, is dispensed with in terms of the earlier reports submitted by the trial Court on 29.08.2018.

In view of what has been discussed hereinabove, the petition is allowed and FIR No.162 dated 11.07.2017 for offence punishable under Sections 120-B, 406, 420, 419, 467, 468, 471, 201 IPC registered at Police Station Mullana, District Ambala and proceedings emanating therefrom are ordered to be quashed, *qua* the petitioners.

(ARVIND SINGH SANGWAN)
JUDGE

06.10.2023
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Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No