

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M No.45632 of 2019 (O&M)

Date of Decision: 06.10.2023

Jaspal Singh and Others

..Petitioners

VERSUS

State of Punjab and Another

..Respondents

CORAM : HON'BLE MRS. JUSTICE ALKA SARIN

Present : Ms. Malkit Kaur, Advocate for
Mr. Vaibhav Sehgal, Advocate for the petitioners.

Mr. Harjinder Singh Sidhu, AAG Punjab for respondent No.1.

Mr. Akash Agarwal, Advocate for
Mr. Saurabh Savara, Advocate for respondent No.2.

ALKA SARIN, J. (Oral)

1. The present petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.10 dated 12.08.2019 registered under Sections 498-A, 406 and 120-B of the Indian Penal Code, 1860 at Police Station NRI, District Ludhiana Rural, and all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 14.10.2019 (Annexure P-2).

2. On 24.10.2019 the following order was passed :

“The petitioners have approached this Court seeking quashing of FIR (Annexure P-1) and all consequential proceedings emanating therefrom on the basis of a compromise having been effected between the parties.

Notice of motion for 17.2.2020.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 26.11.2019 for recording their statements qua compromise.

At this stage, Ms. Deep Shikha, Advocate has today put in appearance on behalf of respondent No.2 and has filed power of attorney, which is taken on record.

The learned counsel for the petitioners has submitted that none of the petitioner has ever been declared a proclaimed offender. It has further been submitted that since petitioner No.1 Jaspal Singh is presently residing abroad, his statement may be got recorded through his attorney namely Satinder Kaur, who is mother of petitioner No.1.

Petitioner No.1 may get his statement recorded through his duly authorized attorney subject to production of original, duly embossed power of attorney before the Trial Court.

The learned Trial Court after examining the said power of attorney shall retain a copy of the same and return the original back to the attorney.

The Illaqa Magistrate/trial Court is directed to submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties.

The Illaqa Magistrate/trial Court shall also furnish the following information:-

- 1. Whether there is any other accused other than the petitioners, arrayed in this petition?*
- 2. Whether there is any other complainant or affected/ aggrieved party other than the respondents, arrayed in the petition?"*

3. Pursuant to the order dated 24.10.2019, a report dated 30.11.2019 of the Judicial Magistrate 1st Class, Jagraon has been received by this Court wherein it has been stated that the statements of the parties have been recorded and the parties have stated that they have compromised the matter voluntarily without any threat, pressure, undue influence or fraud and that the complainant/respondent No.2 has no objection to the quashing of the present FIR. Statements of the parties have also been appended with the report.

4. Learned counsel for the petitioners has also pointed out that the parties have since obtained a decree of divorce under Section 13-B of the Hindu Marriage Act, 1955.

5. Learned counsel for respondent No.2 has reiterated that the parties have since compromised the matter and that he has no objection if the present FIR is quashed.

6. The Apex Court in the case of **Gian Singh vs. State of Punjab & Anr. [2012 (10) SCC 303]** 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 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-dominatingly 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.”

7. Learned counsel for the petitioners has also referred to the law laid down by this Court in **Kulwinder Singh & Ors. vs. State of Punjab & Anr. [2007 (3) RCR (Criminal) 1052]** wherein it has been held that even in non-compoundable offences, if the parties have entered into a compromise, this Court has wide powers under Section 482 CrPC to quash the proceedings to prevent abuse of law and secure the ends of justice.

8. In view of the above and keeping in view the report by the Trial Court that the parties have genuinely entered into a compromise and all the disputes between the parties have been resolved, it would not be in the interest of justice to continue the criminal proceedings.

9. Resultantly, FIR No.10 dated 12.08.2019 registered under Sections 498-A, 406 and 120-B of the Indian Penal Code, 1860 at Police Station NRI, District Ludhiana Rural is quashed, including all subsequent proceedings arising out of the said FIR, on the basis of compromise dated 14.10.2019 (Annexure P-2)

10. The petition is accordingly allowed. Pending applications, if any, also stand disposed off.

(ALKA SARIN)
JUDGE

06.10.2023
jk

NOTE: Whether speaking/non-speaking: Speaking
Whether reportable: YES/NO