

CRM-12030-2023 in/and
CRM-M-51815-2019

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Neutral Citation No:2023:PHHC:040533

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-12030-2023 in/and
CRM-M-51815-2019

Date of Decision: March 20, 2023

Mandar Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BHARDWAJ

Present: Mr.Harpal Singh Sidhu, Advocate
for the applicant/petitioners.

Mr.Sandeep Kumar, DAG, Punjab.

Mr.Kuljit Singh, Advocate
for respondent Nos.2 and 3.

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RAJESH BHARDWAJ, J.(ORAL)

CRM-12030-2023

Instant application has been filed under Section 482 Cr.P.C.
praying for recalling of order dated 16.02.2023.

It has been contended by counsel for the applicant/petitioners
that one of the close relative of counsel for applicant/petitioners had
expired on the date of hearing of the case and on account of the same,
counsel could not appear due to which the petition filed by the
applicant/petitioners was dismissed for non-prosecution. It is further
submitted that non-appearance of counsel for the applicant/petitioners was
bona fide and unintentional and if the petition is not restored to its original

number, the applicant/petitioners would suffer an irreparable loss and injury.

Notice of the application to the respondents.

On asking of the Court, Mr.Sandeep Kumar, DAG, Punjab, who is present in Court, accepts notice on behalf of the petitioners and Mr.Kuljit Singh, Advocate, accepts notice on behalf of respondents no.2 and 3 and both counsel are of the opinion that the order deserves to be recalled and the petition be restored to its original number.

After hearing counsel for the parties and going through the file, application is allowed. Main case is restored to its original number and is taken up on Board today itself.

CRM-M-51815-2019

Instant petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.23, dated 06.03.2019, under Sections 324, 323, 148, 149 IPC, registered at Police Station City Vairo Ke District Fazilka, (Section 326 IPC added later on vide rapat No.26, dated 09.03.2019), Annexures P1 and P2, Women Cell, District Jalandhar, Punjab, and all the subsequent proceedings arising therefrom on the basis of compromise dated 05.08.2019, arrived into between the parties, Annexure P-3.

FIR in question was got registered by complainant-respondent No.2 and the investigation commenced thereon. However, with the intervention of respectables, finally the parties arrived at settlement and they resolved their inter se dispute, which is apparent from Compromise, annexed as Annexure P-3. On the basis of the compromise, the petitioners are

invoking the inherent power of this Court by praying that continuation of these proceedings would be a futile exercise and an abuse of process of the Court and thus, the FIR in question and all the subsequent proceedings arising therefrom may be quashed in the interest of justice.

A Coordinate Bench of this Court vide order dated 06.12.2019 directed the parties to appear before the concerned Illaqa Magistrate/trial Court for recording their statements, as contended before the Court, and the Illaqa Magistrate/trial Court was also directed to send its report. In pursuance to the same, learned Judicial Magistrate Ist Class, Jalalabad(w) sent its report dated 17.04.2020 to this Court. With the report he has also annexed the original statements of accused/petitioners, namely, Mandar Singh, Sikandar Singh, Jalandhar Singh, Suba Singh, Jagmohan Singh and Shhinder Singh and statement of complainant-respondent No.2-injured Mahma Singh and respondent No.3-injured-Parvinder Singh, recorded separately on 20.01.2020 and statement of ASI Des Raj recorded on 14.02.2020.

On the basis of the statements, learned Judicial Magistrate Ist Class, Jalalabad(w) has concluded in the report that he had questioned the complainant about the veracity and genuineness of compromise and he is of the view that the matter has been compromised voluntarily without any pressure and coercion upon the complainant and the same is genuine. He has further submitted in the report that none of accused was declared P.O. in the case.

I have heard learned counsel for the parties, perused the record

and the report sent by learned Judicial Magistrate Ist Class, Jalalabad(w).

A bare perusal of statutory provision of the 482 Cr.P.C. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 320 Cr.P.C. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Indian Penal Code.

Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466; B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675 followed by this Court in Full Bench case of Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052 have dealt with the proposition involved in the present case and settled the law.

Thereafter, Hon'ble Supreme Court in Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303 further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335. Para 61 of the judgment reads as under:-

“61. 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-dominantly civil flavour stand on a 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, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, 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 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 the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court, it is apparent that when the parties have entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 482 Cr.P.C.

Although present case pertains to an offence under Section 326 IPC yet good sense has prevailed upon the parties and they have settled the dispute and this Court accepts the settlement just to enhance the spirit of brotherhood, peace and harmony between the parties.

As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence,

registered at Police Station City Vairo Ke District Fazilka, (Section 326 IPC added later on vide rapat No.26 dated 09.03.2019, and all the subsequent proceedings arising therefrom are quashed qua the petitioner(s) on the basis of compromise (Annexure P-3).

Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

Petition stands allowed.

March 20, 2023
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(RAJESH BHARDWAJ)
JUDGE

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| 1. | Whether speaking/reasoned ? | Yes/No |
| 2. | Whether reportable ? | Yes/No |