



CRM-M-16567-2018 and connected case 1

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

115 (I) CRM-M-16567-2018
Date of Decision : October 16, 2024

SUBHASH JAIN AND ANOTHER -PETITIONERS

V/S

STATE OF HARYANA AND ANOTHER -RESPONDENTS

(II) CRM-M-10549-2024

ANIL BANSAL -PETITIONER

V/S

STATE OF HARYANA AND ANOTHER -RESPONDENTS

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present: Mr. Amar Vivek Aggarwal, Advocate (Through V.C.) with
Mr. Pardeep Goyal, Advocate
for the petitioner(s).

Mr. Rajesh Gaur, Addl. A.G., Haryana.

Mr. Mohit, Advocate
for the complainant/respondent No.2.

KULDEEP TIWARI, J. (ORAL)

1. The amenability of both these petitions for being decided through a common verdict originates from common relief(s) being yearned therein.

2. The relief(s) craved for, in the instant petitions, appertains to quashing of FIR No.653 dated 08.12.2017, under Sections 420, 467, 468, 471, 511 of the IPC, registered at P.S. Fatehabad, District Fatehabad, along

**CRM-M-16567-2018 and connected case****2**

with all the consequential proceedings arising therefrom.

3. During pendency of the instant petition(s), when the parties were in *ad idem* that the matter can be amicable resolved through mediation, therefore, this Court, vide order dated 10.01.2024, directed the parties to appear before the Mediation and Conciliation Centre of this Court for exploring the probabilities of amicable settlement. The efforts of the Mediator concerned reaped fruits, inasmuch as, an amicable settlement became arrived at between the parties, on the hereinafter extracted terms and conditions embodied in the report dated 05.03.2024 furnished by the Mediator concerned:-

“Terms & Conditions:-

(1) *Both the parties have agreed to settle the dispute amicably and agreed that they have no objection if both the above referred FDs, which are already lying deposited in the custody of the trial Court, will be handed over to the Trust, which has made the said Fds.*

(ii) *It has been further agreed that respondent No.2- complainant will have no objection to the quashing of the FIR lodged by him against the first party and he will co-operate and will make a statement in this regard before the Hon'ble Court, if required. None of parties shall level or pursue any litigation against each other in future with regard to the present dispute.*

iii) *It has been further agreed that both the parties will resign from the respective posts held by them in the Trust(s).*

(iv) *It is further agreed between the parties that if any other case/litigation is pending between the parties in any Court of law, the parties would withdraw the same or will co-operate in quashing the said proceedings.”*

4. In view of the settlement/compromise (supra), this Court had, through drawing an order on 06.05.2024, directed the parties to appear before the trial Court/Illaq Magistrate concerned, for getting their respective

**CRM-M-16567-2018 and connected case****3**

statements recorded *qua* authenticity of the compromise. Moreover, the trial Court/Illaq Magistrate concerned was also directed to send a report in the above regard.

5. In pursuance to the directions (*supra*), although a report dated 11.07.2024 was received from the Judicial Magistrate First Class, Fatehabad, however, the disclosure(s) made therein did not authenticate the compromise, inasmuch as, the said report voiced that only the petitioner(s) appeared for recording their statements, but, the complainant did not appear for recording his affirmative statement *qua* the compromise.

6. Nonetheless, this Court afforded another opportunity to the complainant to get his statement recorded before the learned trial Court/Magistrate concerned regarding authenticity of the compromise, however, the complainant did not do so, on the premise that, after arriving at the settlement/compromise (*supra*), not only one of the petitioners made a complaint against his brother working in the District Court, Fatehabad, but also started speaking ill of his family.

7. The above cited purported premise resulted in the learned counsel for the petitioner(s) making a submission before this Court that, although the petitioners never spoke ill of complainant's family, yet they are ready and willing to swear affidavits to the extent that they will neither level any allegations against the complainant, nor speak ill of his family. He also made a submission that the petitioner(s) will also withdraw the complaint filed against the complainant's brother.

8. The submissions/assurances (*supra*) purveyed by the learned counsel for the petitioners were meted compliance, inasmuch as, the requi-

**CRM-M-16567-2018 and connected case****4**

site affidavits were sworn by the concerned and an application for withdrawal of the complaint filed against the complainant's brother was also made by the petitioner concerned.

9. The upshot of the above compliance was that, the complainant appeared before the Judicial Magistrate First Class, Fatehabad and got his statement recorded, thereby authenticating the settlement/compromise (compromise). Accordingly, in compliance of the directions of this Court, a Report dated 10.10.2024 has been received from the Judicial Magistrate First Class, Fatehabad, wherein, a satisfaction has been recorded by the Magistrate concerned *qua* the settlement/compromise (*supra*) being drawn in a genuine and voluntary manner, without any coercion or undue influence.

10. I have heard counsel for the parties and gone through the case file.

11. Gainful reference can be made to the judgment rendered by the Hon'ble Supreme Court, in the case of "***Narinder Singh and others Vs. State of Punjab and other***", (2014) 6 Supreme court cases 466. The relevant paragraph of this judgment is extracted hereinafter:-

29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of

**CRM-M-16567-2018 and connected case****5**

the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in a such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other hand, those criminal cases having overwhelmingly and predominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore are to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if

**CRM-M-16567-2018 and connected case****6**

proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delicate parts of the body, nature of weapons used, etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the Settlement and quash the criminal proceedings whereas in the latter case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come to a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial

**CRM-M-16567-2018 and connected case****7**

court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

12. The above principle gets reiterated in the case of “***State of Madhya Pradesh vs. Laxmi Narayan and others (2019)***”, 5 Supreme court cases 688, wherein, the Hon’ble Supreme Court has held as under:-

“15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non- compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected


CRM-M-16567-2018 and connected case
8

sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove”.

13. Furthermore, the Hon’ble Supreme Court in ***Shakuntla Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63***, speaking through Justice V.R. Krishna Iyer, has held as under:-

“4.The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship or reunion.....”

14. Considering the facts of the present case as well as the principle of law laid down by Hon'ble Supreme Court, it would be futile to drag the present proceedings, as continuation of the criminal proceedings, despite settlement and compromise, would amount to abuse of process of law. Accordingly, in the light of the hereinabove recorded aspects and considering the fact that the offences, for which the petitioners/accused have been charged, are not grave in nature, as also in view of the law laid down in ***Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543*** and ***Kulwinder Singh and others Vs. State of Punjab 2007(3) RCR (Criminal) 1052***, the present petitions for quashing the FIR (supra) are hereby **allowed**.

The FIR No.653 dated 08.12.2017, under Sections 420, 467, 468, 471, 511 of



CRM-M-16567-2018 and connected case **9**

the IPC, registered at P.S. Fatehabad, District Fatehabad, along with all the consequential proceedings arising therefrom, is hereby **quashed**, on the basis of settlement/compromise dated 05.03.2024, subject to costs of Rs.5,000/- being forthwith deposited by the petitioners in the District Legal Services Authority concerned.

15. Moreover, the FDR(s), which is lying deposited with the learned trial Court concerned shall be returned to the concerned, in accordance with the settlement/compromise (supra). Also, the parties are bound down by their undertaking that they will not, in respect of the dispute at hand, initiate any further litigation against each other.

16. Pending application(s), if any, stand disposed of accordingly.

17. A photocopy of this order be placed on file of connected case.

October 16, 2024
devinder

(KULDEEP TIWARI)
JUDGE

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