

(2021) 10 P&H CK 0144

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 2230 Of 2020 (O& M)

Gurbinder Singh And Others

APPELLANT

Vs

State Of Punjab And Another

RESPONDENT

Date of Decision : 08-10-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 148, 149, 323, 324, 326

Citation : Vinay Kumar, H. S. Sitta, Sanjeet Singh

Bench : Single Bench

Advocate : Harsimran Singh Sethi, J

Final Decision : Allowed

Judgement

Harnaresh Singh Gill, J

Case is taken up for hearing through video conferencing.

CRM-32907-2021

Prayer in the present application under Section 482 Cr.P.C. is for preponement of the date of hearing of the main case, which is fixed for 02.11.2021.

Notice of the application.

At this state, Mr. Sanjeet Singh, Advocate, appears and files vakalatnama on behalf of respondent No. 2 through email, the same is taken on record.

Learned State counsel and learned counsel for respondent No. 2 accepts notice and submit that they have no objection, if the aforesaid prayer is allowed.

In view of the above, the application is allowed and the date of hearing of the main case is preponed from 02.11.2021 to that of today and the same is taken on the Board for hearing.

CRM-M-2230-2020

The petitioners have filed present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 98 dated 13.10.2005, registered under Sections 326, 324, 323, 148, 149 IPC, at Police Station Mehta, District Amritsar, and all consequential proceedings arising therefrom on the basis of compromise dated 06.01.2020 (Annexure P-2).

Vide orders dated 20.01.2020 passed by a Coordinate Bench, the trial Court/ Illaqa Magistrate, was directed to record the statements of all the concerned parties with regard to the genuineness of the compromise.

In compliance thereof, the learned Sub-Divisional Judicial Magistrate, Baba Bakala Sahib, District Amritsar, has submitted a report vide letter dated 12.02.2020, which indicates that the parties appeared before him and got recorded their respective statements with regard to the aforesaid compromise. As per the report, the compromise arrived at between the parties is without any pressure and without any coercion and with free will of the parties.

The Hon'ble Full Bench of this Court in case Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052 and Hon'ble Division Bench of this Court in case Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102 observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

The Hon'ble Apex Court in the case of Gian Singh Versus 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. 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 personnel 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."

The same view has been reiterated by Hon'ble the Apex Court in case *Narinder Singh and others Vs. State of Punjab and another*, 2014(2) RCR (Criminal) 482.

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

Accordingly, the petition is allowed. FIR No. 98 dated 13.10.2005, registered under Sections 326, 324, 323, 148, 149 IPC, at Police Station Mehta, District Amritsar, and all consequential proceedings arising therefrom, are hereby quashed qua the petitioners, on the basis of compromise dated 06.01.2020 (Annexure P-2), subject to depositing the costs of Rs.10,000/- by the petitioners with Shri Guru Granth Sahib Sewa Society (Regd.), opposite New Public School, Sector-18, Chandigarh.

Needless to say that the parties shall remain bound by the terms of compromise and their statements made in the Court below.