
(2018) 08 P&H CK 0236

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No.-32805 Of 2017

Narender and others

APPELLANT

Vs

State of Haryana and others

RESPONDENT

Date of Decision : 21-08-2018

Acts Referred:

Indian Penal Code, 1860 — Section 148, 149, 307, 427, 452

Arms Act, 1959 — Section 25

Code of Criminal Procedure, 1973 — Section 482

Citation : (2018) 08 P&H CK 0236

Hon'ble Judges : ARVIND SINGH SANGWAN, J

Bench : Single Bench

Advocate : Jitender Nara, Naveen Sheoran, Suresh Ahlawat

Final Decision : Allowed

Judgement

The petitioners have prayed for quashing of FIR No.304 dated 08.08.2017 for the offences punishable under Sections 148, 149, 307, 427, 452 of the

Indian Penal Code ('IPC' for short) and Section 25 of Arms Act, 1959, registered at Police Station Beri, District Jhajjar and all the subsequent

proceedings arising therefrom, on the basis of compromise effected between the parties.

Vide order dated 06.09.2017, the parties were directed to appear before the trial Court/Illaq Magistrate to get their statements recorded with regard

to genuineness of the compromise.

The report dated 10.10.2017 has been submitted by the Judicial

Magistrate 1st Class, Jhajjar and report dated 06.08.2018 has been submitted by Addl. Sessions Judge, Jhajjar. As per these reports,

complainant/injured Ramesh and the petitioners have appeared before the trial

Court and recorded their statements that the matter has been compromised between them and statements made by the parties in the Court reveal that they have voluntarily entered into a compromise and the

Court is satisfied that the parties have amicably settled their dispute without any fear, pressure, threat or coercion and out of their free will.

Learned counsel for the petitioners submits that there is no opinion of the doctor declaring the injury sustained by injured Ramesh as dangerous to life

and therefore, the offence under Section 307 IPC is not made out. It is further submitted that no other criminal case is pending between the parties

and none of the petitioner is a proclaimed offender.

Learned State counsel, on the basis of two affidavits filed by Deputy Superintendent of Police, Beri, District Jhajjar and on instructions from ASI Anil

Kumar as well as assisted by learned counsel for respondent No.2-complainant, submits that though it is a case of firearm injury, however, during the

investigation, no such opinion of the doctor has come on record. Learned State counsel has not disputed the fact that the parties have arrived at a

settlement with an intent to give burial to their differences.

I have heard learned counsel for the parties and perused the case file.

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 the

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:-

â??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 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.

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.

In view of what has been discussed hereinabove, present petition is allowed and FIR No.304 dated 08.08.2017 under Sections 148, 149, 307, 427, 452

IPC and Section 25 of the Arms Act, 1959, registered at Police Station Beri, District Jhajjar and all the subsequent proceedings arising therefrom are

ordered to be quashed qua the petitioners, however, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services

Authority, Jhajjar.