
(2018) 08 P&H CK 0308

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. No.18409 Of 2018 (O&M)

Samar Desouza and others

APPELLANT

Vs

State of Punjab and others

RESPONDENT

Date of Decision : 28-08-2018

Acts Referred:

Indian Penal Code, 1860 — Section 148, 149, 323, 341, 379, 506
Code of Criminal Procedure, 1973 — Section 320, 482

Citation : (2018) 08 P&H CK 0308

Hon'ble Judges : ARVIND SINGH SANGWAN, J

Bench : Single Bench

Advocate : S.P.S. Aulakh M.S. Nagra, Madhur Goyal

Final Decision : Allowed

Judgement

The petitioners have prayed for quashing of FIR No.68 dated 19.05.2016, for offence punishable under Sections 323, 341, 506, 379, 148, 149 of the Indian Penal Code (in short 'IPC') registered at Police Station Division No.2, Ludhiana City, District Ludhiana (Annexure P1), on the basis of the compromise (Annexure P2) effected between the parties.

Vide order dated 22.05.2018, the parties were directed to appear before the trial Court to get their statements recorded with regard to genuineness of the compromise.

A report dated 07.06.2018 has been submitted by the Additional District and Sessions Judge, Ludhiana, wherein it has been reported that statements of the petitioners and respondents No.2 to 4 have been recorded 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.

Counsel for the petitioners has submitted that no other criminal case is pending between the parties and none of the petitioner has been declared as proclaimed offender.

Counsel for the State, on instructions from HC Paramjit Singh, assisted with counsel for respondents No.2 to 4 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 counsel for the parties and perused the case file.

After perusing the report submitted by the trial Court, this Court is of the opinion that the matter has been amicably settled between the petitioner and respondents, who have decided to bury their dispute and live in peace.

As per the Full Bench judgment of this Court in *â??Kulwinder Singh and others vs State of Punjabâ??*, 2007 (3) RCR (Criminal) 1052, it is held that

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 *â??Gian Singh vs State of Punjab and anotherâ??*, 2012 (4) RCR (Criminal) 543, has held as under:-

â??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 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, the petition is allowed and FIR No.68 dated 19.05.2016, for offence punishable under Sections 323,

341, 506, 379, 148, 149 IPC registered at Police Station Division No.2, Ludhiana City, District Ludhiana and proceedings emanating therefrom are

ordered to be quashed, qua the petitioners, subject to payment of costs of

Rs.20,000/- to be deposited with the Government Treasury.