

(2019) 03 P&H CK 0137

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 2903, 3552 Of 2019

Yadwinder Singh And Others

APPELLANT

Vs

State Of Punjab And Another

RESPONDENT

Date of Decision : 26-03-2019

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482

Indian Penal Code, 1860 — Section 34, 148, 149, 307, 323, 341, 506

Citation : (2019) 03 P&H CK 0137

Hon'ble Judges : Arvind Singh Sangwan, J

Bench : Single Bench

Advocate : Ajaivir Singh, Joginder Pal Ratra, R. S. Dhull

Judgement

Arvind Singh Sangwan, J

This common order shall dispose of above noted two petitions as they arise out of the same FIR.

These petitions have been filed under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No. 96 dated 13.06.2015, under Sections 307, 323 and 34 of the IPC (challan submitted under Sections 341, 323, 506, 148, 149 IPC), registered at Police Station Morinda, District Rupnagar and all the subsequent proceedings arising therefrom qua both the set of petitioners herein; as well as order dated 28.08.2017, vide which, petitioner Yadwinder Singh was declared a proclaimed offender; on the basis of the compromise entered into between the parties.

Vide orders dated 01.02.2019 and 08.02.2019, the parties were directed to appear before the trial Court and the trial Court was directed to record the statements of the parties and submit a report regarding number of persons arrayed as accused in the FIR; whether any accused is proclaimed offender; whether the compromise is genuine, voluntary and without any coercion or undue influence and whether any accused person is involved in any other FIR.

The trial Court was also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

A report dated 12.03.2019 has been submitted by the Judicial Magistrate First Class, Rupnagar, wherein it has been reported that statement of both the sets of petitioners and complainant 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. It is also reported that two of the aggrieved persons, namely Jagdeep Singh and Jatinder Kaur, have not appeared before the court for recording of their statement.

Learned counsel for the complainant has submitted that Jagdeep Singh is the son of Harnek Singh, complainant in FIR, and Jatinder Kaur is the wife of Jagdeep Singh.

Learned counsel for the petitioners has submitted that in the settlement/agreement arrived at between the parties before the Mediation and Conciliation Centre of this Court, Jagdeep Singh has appeared and has acknowledged the compromise between the parties, therefore, both, Harnek Singh and Jagdeep Singh, represent the interest of Jatinder Kaur as well, who has no objection to the compromise.

In terms of the settlement/agreement arrived at between the parties before the Mediation and Conciliation Centre of this Court, learned counsel for the petitioners has handed over Rs. 60,000/-, by way of a demand draft, and Rs. 5,000/- in cash to learned counsel for the complainant in Court today, who has handed over the same to complainant Harnek Singh, who is present in Court.

Learned counsel for the complainant submits that petitioners have got registered a cross case against the complainant party in DDR No. 8 dated 13.06.2015 which may also be quashed keeping in view the facts and circumstances of the case.

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.

In the first petition, filed by petitioner Yadwinder Singh, it is additionally prayed that order dated 28.08.2017, vide which, he was declared a proclaimed offender, be also set aside.

It is not disputed that in pursuance to the order dated 01.02.2019, even petitioner Yadwinder Singh has appeared before the trial Court and he was released on interim bail.

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 Apex Court in the case of Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543, has held as under:-

"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 predominately 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 the above discussion, these petitions are allowed and FIR No. 96 dated 13.06.2015, under Sections 307, 323 and 34 of the IPC (challan submitted under Sections 341, 323, 506, 148, 149 IPC), registered at Police Station Morinda, District Rupnagar and all the subsequent proceedings arising therefrom are quashed qua both the set of petitioners herein including order dated 28.08.2017, vide which, petitioner Yadwinder Singh was declared a proclaimed offender, however, subject to payment of cost of Rs.3,000/- to be deposited by each set of petitioners with the District Legal Services Authority, Rupnagar.

Keeping in view the fact that the dispute has amicably been settled between the parties and FIR stands quashed, DDR No. 8 dated 13.06.2015, registered against complainant/respondent No. 2 Harnek Singh and others, is also quashed, however, subject to payment of cost of Rs.3,000/-to be deposited with the District Legal Services Authority, Rupnagar.

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