

Pardeep Kumar Vs. State of Punjab and Another

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Court : Punjab and Haryana

Decided On : May-21-2013

Appellant : Pardeep Kumar

Respondent : State of Punjab and Another

Judgement :

CRM Nos.M-12643 and M-13263 of 2013 (O&M) -1- IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH (1) CRM not M-12643 of 2013 Date of decision:

21. 5.2013 Pardeep Kumar ...Petitioner Versus State of Punjab and another ...Respondents (2) CRM not M-13263 of 2013 Date of decision:

21. 5.2013 Sukhdev Singh and others ...Petitioners Versus State of Punjab and another ...Respondents CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN Present: Mr.Amit Dhawan, Advocate for the petitioner in CRM-M No.12643 of 2013.

Mr.Prashant Bansal, Advocate for the petitioners in CRM-M No.13263 of 2013.

Mr.BS Pathania and Mr.KS Chauhan, Advocates for respondent No.2.

Mr.Luvinder Sofat, AAG, Punjab, assisted by Head Constable Satpal.

**** Jitendra Chauhan, J.

(Oral) These two separate petitions have been filed by the petitioners Pardeep Kumar, Sukhdev Singh, Balwinder Singh and Surjeet Singh alias Chenna, under Section 482 of the Code of Criminal Procedure CRM Nos.M-12643 and M-13263 of 2013 (O&M) -2- for quashing of the FIR No.64 dated 1.6.2012 (Annexure P-1).under Sections 406/420/120-B of Indian Penal Code registered at Police Station Machhiwara, Police District Khanna and subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-2 and P-3).As in both the cases the FIR is the same, the report received from the Magistrate regarding validity of the compromise is the same, the respondent is the same and the relief sought is the same, this Court proposes to dispose of these petitions by this single judgment.

Heard.

Vide orders dated 23.4.2013 and 2.5.2013, the parties were directed to appear before the learned Chief Judicial Magistrate/Ilalaqa Magistrate, for getting their statements recorded.

In compliance thereof, report of Judicial Magistrate Ist Class, dated 13.5.2013, has been received to the effect that the parties have arrived at an out of Court settlement and the said settlement is genuine and without any pressure.

Hon'ble the Supreme Court, in 'Gian Singh versus State of Punjab and another', 2012(4) RCR (Criminal) 543, has observed in para 57 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 CRM Nos.M-12643 and M-13263 of 2013 (O&M) -3- 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 pre-dominantly civil favour CRM Nos.M-12643 and M-13263 of 2013 (O&M) -4- 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.

CRM Nos.M-12643 and M-13263 of 2013 (O&M) -5- In view of the above, this Court feels that no purpose would be served in keeping the proceedings alive.

Accordingly, both the petitions are allowed; FIR No.64 dated 1.6.2012 (Annexure P-1).under Sections 406/420/120-B IPC, registered at Police Station Machhiwara, Police District Khanna, and all consequential proceedings arising therefrom; are, hereby, quashed qua the petitioners Pardeep Kumar, Sukhdev Singh, Balwinder Singh and Surjeet Singh alias Chenna in both the cases.

21.5.2013 (JITENDRA CHAUHAN) Brij JUDGE

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