

Avinash Kumar Alias Sethi and Others Vs. State of Punjab and Another

Avinash Kumar Alias Sethi and Others Vs. State of Punjab and Another

SooperKanoon Citation : sooperkanoon.com/1121095

Court : Punjab and Haryana

Decided On : Jan-14-2014

Appellant : Avinash Kumar Alias Sethi and Others

Respondent : State of Punjab and Another

Judgement :

In the High Court of Punjab and Haryana at ChandigarhCriminal Misc.

No.M-38009 of 2013Date of decision:14.1.2014 Avinash Kumar alias Sethi and others ...Petitioners v.

State of Punjab and another ...Respondents ...Coram: Hon'ble Mr.Justice Inderjit SinghPresent: Mr.L.S.Sidhu, Advocate for the petitioners.Mr.K.S.Aulakh, Assistant Advocate General, Punjab for the respondent-State.

Mr.D.S.Sidhu, Advocate for the complainant- respondent No.2....Inderjit Singh, J.

This petition has been filed by petitioners Avinash Kumar alias Sethi, Onkar Chand and Kultar Chand alias Kultar Singh alias Sandeep under Section 482 Cr.P.C.for quashing of FIR No.87 dated 31.8.2012 (Annexure-P.1) registered on the complaint of Sethi Kumar- complainant (respondent No.2) for the offences under Sections 323, 341, 506 and 34 IPC at Police Station Nurpur Bedi, District Roopnagar and all other subsequent proceedings arising therefrom, on the basis of compromise dated 12.9.2012 (Annexure-P.2).On 12.11.2013, learned trial Court was directed to send a report with regard to the genuineness/validity or otherwise

of the Parmar Harpal Singh 2014.01.15 16:40 I attest to the accuracy and integrity of this document Chandigarh Cr.

Misc.

No.M-38009 of 2013 [2].compromise (Annexure-P.2) after recording the statements of all the concerned parties.

In compliance of the above, the learned Sub Divisional Judicial Magistrate, Anandpur Sahib has sent his report vide letter dated 16.12.2013, wherein statements of Harmesh Chand father of complainant Sethi Kumar and accused-petitioners Avinash Kumar alias Sethi, Onkar Chand alias Jogi and Kultar Chand alias Kultar Singh alias Sandeep have been recorded.

The complainant has admitted the factum of compromise with the accused-petitioners. He has also admitted that said compromise was effected voluntarily out of their own free will and without any influence and pressure and he has no objection if above said FIR is quashed.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer, and learned counsel for the complainant- respondent No.2 admit the factum of compromise and have no objection if the impugned FIR and all other subsequent proceedings arising therefrom are quashed.

I have heard learned counsel for the parties.

The FIR has been registered on the complaint of Sethi Kumar for the offences under Sections 323, 341, 506 and 34 IPC.

Now with the intervention of respectable persons of both the parties the matter has been compromised.

The statement of father of complainant-respondent No.2 has already been recorded in that regard by the learned Sub Divisional Judicial Magistrate, Anandpur Sahib, wherein he has submitted that his Parmar Harpal Singh 2014.01.15 16:40 I attest to the accuracy and integrity of this document Chandigarh Cr.

Misc.

No.M-38009 of 2013 [3].son has no objection, if the above said FIR and subsequent proceedings of this case are quashed.

Since the parties have amicably settled their dispute, the chances of ultimate conviction are bleak.

After giving my thoughtful consideration to the matter, it may be noticed that the Hon'ble Supreme Court in *Gian Singh v.*

State of Punjab and another, 2012 (4) RCR (Cr.) 543, has held that the inherent jurisdiction of this Court under Section 482 Cr.P.C.can be exercised to quash the proceedings in respect of criminal cases 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 even though they are not compoundable.

The Hon'ble Supreme Court after having interpreted the relevant provisions, has held in para 57 of the judgment as follows:- 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 *Parmar Harpal Singh* 2014.01.15 16:40 I attest to the accuracy and integrity of this document Chandigarh Cr.

Misc.

No.M-38009 of 2013 [4].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 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 *Parmar Harpal Singh* 2014.01.15 16:40 I attest to the accuracy and integrity of this document Chandigarh Cr.

Misc.

No.M-38009 of 2013 [5]. 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.

Keeping in view the factum of compromise and the law laid down by the Hon'ble Supreme Court in Gian Singh v.

State of Punjab and another (supra).this petition is allowed and FIR No.87 dated 31.8.2012 (Annexure-P.1) registered for the offences under Sections 323, 341, 506 Parmar Harpal Singh 2014.01.15 16:40 I attest to the accuracy and integrity of this document Chandigarh Cr.

Misc.

No.M-38009 of 2013 [6].and 34 IPC at Police Station Nurpur Bedi, District Roopnagar and all other subsequent proceedings arising therefrom are hereby quashed on the basis of compromise dated 12.9.2012 (Annexure-P.2).January 14, 2014.

(Inderjit Singh) Judge *hsp* Parmar Harpal Singh 2014.01.15 16:40 I attest to the accuracy and integrity of this document Chandigarh

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com