

**Deep Singh and anr Vs. State and anr**

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**SooperKanoon Citation :** [sooperkanoon.com/1171164](http://sooperkanoon.com/1171164)

**Court :** Delhi

**Decided On :** Sep-02-2014

**Judge :** Sudershan Kumar Misra

**Appellant :** Deep Singh and anr

**Respondent :** State and anr

**Judgement :**

\$~25 \* IN THE HIGH COURT OF DELHI AT NEW DELHI + CRL.M.C. 3957/2014 DEEP SINGH & ANR ..... Petitioners Through Mr Pragyan Sharma and Mr Sanjay Kumar Dubey, Advs. versus STATE & ANR ..... Respondents Through Mr P K Mishra, APP for State with SI Khukd Akhtar PS B H Rao, Delhi Mr Subhash Chand, Adv. for R-2 CORAM: HON'BLE MR. JUSTICE SUDERSHAN KUMAR MISRA % SUDERSHAN KUMAR MISRA, J.

(Oral) CrI.M.A.13544/2014(exemption) Allowed, subject to all just exceptions. The applications stand disposed off. CRL.M.C. 3957/2014 & CrI.M.A.13543/2014 1. This petition has been moved by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 praying for quashing of FIR No.81/2008 under section 419/420/486/471/34 dated 21.7.2008 registered at Police Station Bara Hindu Rao, Delhi and criminal proceedings pending in the Court of learned Chief Metropolitan Magistrate, Tis Hazari Court, Delhi on the ground that the matter has been amicably settled between party.

2. Issue notice. Mr. P.K.Mishra, counsel for the State as well as counsel for the complainant Mr Kishan Lal Malhotra, enter appearance and accept notice.

3. Petitioner No.1 is identified by his counsel as well as the complainant. It is stated that the complaint came to be instituted at the instance of complainant alleging that the petitioners had committed the aforesaid offences in the course of certain financial transactions involving the complainant as well as bank officials, which the complainant felt had resulted in a loss to him to the tune of Rs.4,87,850/-. Today it is stated that the complainant as well as accused have entered into a compromise on 6th September, 2012, and have amicably settled the matter on the terms and conditions recorded in a deed of compromise of the same date, which is also annexed with this petition.

4. Counsel for the State submits that FIR was lodged in the year 2008; and after investigation, the chargesheet came to be filed on 29th March, 2011. The charge is yet to be framed by the trial court.

5. The complainant, who is present in person also approbates the aforesaid compromise and states that he is not interested in supporting the prosecution and that the matter be closed, since he has no grievance against the petitioners. He also states that looking to the overall circumstances, no useful purpose would be served in continuing same since the chances of success in the prosecution are greatly diminished.

6. The counsel for the petitioner further states that the petitioner is also willing to pay any costs that may be directed by this Court.

7. Under the circumstances and looking to the decision of the judgment of the Supreme Court in the case of Gian Singh v. State of Punjab, (2012) 10 SCC303 which has referred to a number of matters for the proposition that even a non-compoundable offence can also be quashed on the ground of a settlement agreement between the offender and the victim, if the circumstances so warrant; by observing as under:

58. ....However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

8. And also in *Narinder Singh and Ors. v. State of Punjab and Anr.* 2014(2) Crimes 67 (SC) where the Supreme Court held as follows:

29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29. 1 Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution. 29.2 When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is filed, the guiding factor in such cases would be to secure: (i) ends of justice, or (ii) to prevent abuse of the process of any Court. While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives. 29.3 Such a power is not to be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder,

rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender. 29.4 On the other hand, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves. 29.5 While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases. 29.6 Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. 29.7 While deciding whether to exercise its power under Section 482 of the Code or

not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 Indian Penal Code is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.

9. I am of the opinion that the matter deserves to be given a quietus since the petitioner is no longer interested in supporting the prosecution thereby reducing the chances of success, subject to the petitioners depositing a further sum of Rs.30,000/- each to the Indigent and Disabled Lawyers Fund of the Bar Council of Delhi, within two weeks from today. Proof of deposit be furnished to the Trial Court and the copy to be filed before this Court within one week thereafter.

10. Subject to the aforesaid, the FIR No.81/2008 under section 419/420/486/471/34 dated 21.7.2008 registered at Police Station Bara Hindu Rao, Delhi and all proceedings emanating therefrom are quashed. The petition stands disposed off. SUDERSHAN KUMAR MISRA Judge SEPTEMBER02 2014 vld