

**(2012) 10 P&H CK 0185**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** CRM No. M-35929 of 2011 (O and M)

Gurmail Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

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**Date of Decision:** Oct. 1, 2012

**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 320, 482
- Penal Code, 1860 (IPC) - Section 148, 149, 323, 324, 325

**Hon'ble Judges:** Mehinder Singh Sullar, J

**Bench:** Single Bench

**Advocate:** Sukhmeet Singh, for the Appellant; Raj Preet Singh Sidhu, AAG, Punjab and Mr. Baljinder Singh Ichhewal, Advocate, for the Respondent

**Final Decision:** Allowed

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**Judgement**

Mehinder Singh Sullar, J.

Tersely, the facts and material, culminating in the commencement, relevant for disposal of the instant petition and emanating from the record is that, initially complainant-Ambu Ram son of Dana Ram, respondent No. 2 (for brevity "the complainant") filed a private criminal complaint(Annexure P-1) against the petitioners-accused Gurmail Singh and others, on accusation of having committed the offences punishable under Sections 452, 341, 323, 324, 325, 148 and 149 IPC. Taking cognizance of the complaint and considering the preliminary evidence, the petitioners-accused were summoned to face trial for the commission of the indicated offences by the trial Court. Thereafter, having completed all the codal formalities, the petitioners-accused were accordingly charge-sheeted and the case was slated for evidence of the complainant.

2. During the pendency of the criminal complaint, good sense prevailed and the parties have amicably settled their disputes, by means of compromise-deed dated 17.11.2011(Annexure P-2).

3. Having compromised the matter, now the petitioners-accused have directed the present petition, to quash the impugned complaint (Annexure P-1) and all other subsequent proceedings arising therefrom, invoking the provisions of Section 482 Cr.P.C., inter alia, pleading that the respectable persons belonging to the area have intervened and the parties have compromised the matter. Now they want to end the dispute. They are neighbourers and are residing in the same locality. They have redressed their grievances. They want to live in peace in future. The complainant has no objection if the present criminal case instituted on his private complaint against the petitioners-accused is quashed. On the strength of aforesaid grounds, the petitioners-accused sought to quash the impugned complaint (Annexure P-1) and all other subsequent proceedings arising therefrom, in the manner depicted hereinabove.

4. During the course of preliminary hearing, a Coordinate Bench of this Court (Rameshwar Singh Malik, J.) directed the trial Court, to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise(Annexure P-2) between them, vide order dated August 24, 2012.

5. In compliance thereof, the Judicial Magistrate 1st Class, has submitted her report bearing No. 191 dated 11.09.2012, which in substance is as under:-

Statement were duly recorded by this Court on 7.9.2012. The parties got recorded their statement in English. Complainant Ambu Ram and accused Gurmail Singh, Diwan Chand, Maghar Singh, Amrik Singh, Darshan Singh and Billu Singh suffered statements that matter stands compromised between the parties with their free will and without any pressure vide compromise Annexure P2 which has already been filed before Hon"ble High Court. Complainant Ambu Ram also depose that he does not want to proceed with the complaint and withdraw the same.

In view of the statements it is manifest that the parties have compromised the matter out of their free will. Hence it is submitted that the same is valid one."

6. Meaning thereby, it stands proved on record that the parties have amicably settled their disputes, vide compromise-deed dated 17.11.2011(Annexure P-2). The factum of compromise is also reiterated in the report of the trial Court.

7. What cannot possibly be disputed here is that, the law with regard to the settlement of criminal disputes by virtue of amicable settlement between the parties is no more res integra and is now well-settled.

8. An identical question recently came to be decided by the Hon"ble Apex Court in SLP (Crl.) No. 8989 of 2010, titled as Gian Singh Versus State of Punjab and another., decided on September 24, 2012. Having interpreted the relevant provisions and considered a line of the judgments on the indicated points, it was ruled (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 the power given to a criminal court for compounding the offences u/s 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 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 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.

9. Above being the legal position and the material on record, now the short and significant question, though important, that arises for determination in this petition is, as to whether the present criminal prosecution against the petitioners deserves to be quashed in view of the compromise or not?

10. Having regard to the contentions of the learned counsel for the parties, to my mind, it would be in the interest and justice would be sub-served, if the parties are

allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

11. As is evident from the record that, the respectable persons belonging to the area have intervened and the parties have compromised the matter with their free will and without any kind of pressure, *vide* compromise(Annexure P-2). They are neighbours and are residing in the same locality. They do not want to take any action against each other. They have redressed their grievances. They want to live in peace in future. The complainant has no objection if the present criminal case instituted on his private complaint and all other subsequent proceedings are quashed. The factum and genuineness of the compromise between the parties is also reiterated by the Judicial Magistrate Ist Class in her indicated report. Thus, it would be seen that since, the compromise is in the welfare and interest of the parties, so, there is no impediment in translating their wishes into reality and to quash the criminal prosecution to set the matter at rest, to enable them to live in peace and to enjoy the life and liberty in a dignified manner. Therefore, to me, the ratio of the law laid down and the bench-mark set out by the Hon"ble Supreme Court in Gian Singh's case(*supra*), "*mutatis mutandis*" is attracted to the facts of the present case and is the complete answer to the problem in hand. *Sequelae*, the impugned complaint (Annexure P-1) and all other subsequent proceedings arising therefrom, deserve to be quashed in the obtaining circumstances of the case. In the light of aforesaid reasons, the instant petition is accepted. Consequently, the impugned complaint(Annexure P-1) and all other subsequent proceedings arising therefrom, are hereby quashed. The petitioners-accused are accordingly acquitted of the charges framed against them, in this respect.