

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 2052 OF 2013  
(Arising out S.L.P. ((Criminal) No. 8989 of 2010))

GIAN SINGH

Appellant (s)

VERSUS

STATE OF PUNJAB & ANR

Respondent(s)

O R D E R

Leave granted.

2. The present matter along with other matters were referred to a three-Judge Bench to consider the correctness of the decisions of this Court in B.S. Joshi Vs. State of Haryana<sup>1</sup>, Nikhil Merchant Vs. C.B.I.2 and Manoj Sharma Vs. State<sup>3</sup>.

3. A three-Judge Bench presided over by one of us, R.M. Lodha, J., has answered the reference on September 24, 2012 which is reported in (2012) 10 SCC 303. It has been held by the three-Judge Bench that B.S. Joshi<sup>1</sup>, Nikhil Merchant<sup>2</sup> and Manoj Sharma<sup>3</sup> were correctly decided.

4. The legal position was culled out in para 61 of the report reads as follows :-

"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 FIR may be exercised where the offender and the 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-dominatingly 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."

5. The High Court's view has to be set aside in light of the above legal position and the matter needs to be sent back to the High Court for fresh consideration of the petition under Section 482 of the Code of Criminal Procedure, 1973.

6. We, accordingly, allow the appeal to the above extent and restore Criminal Miscellaneous No. M-27367 of 2010 titled "Ltd. Col. Gian Singh Vs. State of Punjab and Nirmal Singh" to the file of the Punjab and Haryana High Court for fresh decision in the matter in accordance with the legal position exposted by the three-Judge Bench of this Court as noted above.

.....J.  
( R.M. LODHA )

NEW DELHI; .....J.  
DECEMBER 6, 2013 ( SHIVA KIRTI SINGH )

ITEM NO.201 COURT NO.3 SECTION IIB

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl) No(s).8989/2010

(From the judgement and order dated 17/09/2010 in CRM No.27367/2010 of The HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH)

GIAN SINGH Petitioner(s)

VERSUS

STATE OF PUNJAB & ANR

Respondent(s)

(With appln(s) for stay and office report )

[FOR FINAL DISPOSAL]

Date: 06/12/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA  
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Mr. Rajiv Kataria, Adv.  
Ms. Debjani Das P., Adv. for  
M/S. Delhi Law Chambers

For Respondent(s) Mr. Jayant K. Sud, Add. A.G.  
Mr. Chirag Khurana, Adv.  
Mr. Ujas Kumar, Adv.  
Mr. Kuldip Singh, Adv.

UPON hearing counsel the Court made the following  
O R D E R

Leave granted.  
Appeal is allowed to the extent indicated in the signed  
order.

| (Rajesh Dham)  
| Court Master

| | (Renu Diwan)  
| | Court Master

(signed order is placed on the file)

- 1 (2003) 4 SCC 675
- 2 (2008) 9 SCC 677
- 3 (2008) 16 SCC 1