

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**Criminal Misc. No. M-10827 of 2013
Date of Decision: 13.10.2015**

Naval Kumar and others

--Petitioners.

Vs.

State of Punjab and others

--Respondents.

Criminal Misc. No. M-1542 of 2014

Deepak Kumar

--Petitioner.

Vs.

State of Punjab and others

--Respondents.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Anurag Arora, Advocate
for the petitioners.

Ms. Anmol Grewal, AAG, Punjab.

Mr. Dilpreet Singh, Advocate
for respondent No.2.

To be referred to the Reporters or not? Yes

1. Whether the judgment should be reported in the Digest?

RAMESHWAR SINGH MALIK J. (ORAL)

These two petitions under Section 482 of the Code of Criminal Procedure ('Cr.P.C.' for short), bearing CRM-M-10827 of 2013 and CRM-M-1542 of 2014, for seeking quashing of the same impugned FIR on the basis of the same compromise, are being

decided together. However, for the facility of reference, facts are being culled out from CRM-M-10827 of 2013.

Petitioners seek quashing of FIR No. 171 dated 12.7.2008 under Sections 307/353/323/427/506/186/148/149 of the Indian Penal Code ('IPC' for short), registered at Police Station City Sangrur, and consequential criminal proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Notice of motion was issued. During the pendency of these petitions, respondent No.4 expired and respondents No. 5 to 7 have retired from service. Complainant-respondent No.2 and injured-respondent No.8 have entered into a compromise with the petitioners.

Vide notice of motion order dated 5.4.2013 passed in CRM-M-10827 of 2013, parties were directed to appear before the learned trial court for getting their statements recorded, so as to enable the learned trial court to record its satisfaction about the genuineness of compromise. Consequently, parties appeared before the learned trial court and report dated 5.6.2013 received from the learned Additional Sessions Judge, Sangrur, is available on record, whereby compromise arrived at between the parties has been found to be a genuine one. No reply on behalf of the respondent-State has been filed in either of these petitions opposing quashing of the impugned FIR. However, in compliance of the order dated 21.5.2015, affidavit dated 13.10.2015 was filed on behalf of the respondent-State. In the abovesaid affidavit filed by Senior

Superintendent of Police, Sangrur, it has been stated that no injury was suffered by Nirmal Singh, Naib Tehsildar. This seems to be the reason that private respondents, out of them some are police officials, have also not opposed quashing of the impugned FIR, nor any such reply has been filed on their behalf. In fact, as per the allegations levelled in the impugned FIR itself, it was a mob who manhandled some of the police officials and Naib Tehsildar. However, no specific allegation has been levelled against any of the petitioners, which may disclose any particular offence against any of the petitioners.

As noticed hereinabove, complainant-respondent No.2 as well as injured-respondent No. 8 have arrived at an amicable settlement with the complainant by way of compromise (Annexure P-2), which has also been found genuine by the learned trial court vide its abovesaid report.

In view of the above, learned counsel for the petitioners in both the cases submits that the parties have decided to bury the hatchet and are living peacefully. Learned counsel for the petitioners further submits that continuation of the impugned FIR and subsequent criminal proceedings arising therefrom, are liable to be quashed in the interest of justice.

Learned counsel for respondent No.2 also fairly states that parties have entered into a compromise and he has got no objection if the impugned FIR with consequential proceedings arising therefrom are ordered to be quashed.

Learned counsel for the petitioners as well as learned counsel for the State are ad idem that, none of the petitioners is proclaimed offender.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that these are fit cases for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice. It is so said because the parties have arrived at an out of Court settlement by way of compromise (Annexure P-2). The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

The abovesaid view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court of India in **Shiji @ Pappu and others versus Radhika and another, 2012 (1) RCR (criminal) 9** and also from the larger Bench judgment of this Court in **Kulwinder Singh and others versus State of Punjab and another reported as 2007 (3) RCR (criminal) 1052**. The observations made by the Hon'ble Supreme Court in para 13 of the judgment in Shiji's case (supra), which can be gainfully followed in the present case, read as under:

"It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of

recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power under Section 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that

the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.”

The law laid down by the Hon'ble Supreme Court in **Shiji's** case (supra) has been further reiterated by the Hon'ble Supreme Court in its later judgments including in the cases of **Jayrajsinh Digvijaysinh Rana v. State of Gujarat and another, 2012 (12) SCC 401, Gold Quest International Private Limited v. State of Tamil Nadu & Ors., 2014 (4) RCR (Crl) 206, Manohar Singh v. State of Madhya Pradesh and another, 2014 AIR (SC) 3649 and Narinder Singh and others v. State of Punjab and another, 2014 (6) SCC 466.**

Reverting back to the facts of the present case, this Court has satisfied itself that the compromise arrived at between the parties is a genuine one. They have got their statements recorded before the learned trial court, without any pressure. In view of the genuine compromise arrived at between the parties and also in view of the report received from the learned trial court, this Court feels no

hesitation to conclude that the continuation of the prosecution any further would be nothing but sheer abuse of the process of law. It would result in wastage of valuable time of the Court because no chance of conviction is left.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No. 171 dated 12.7.2008 under Sections 307/353/323/427/506/186/148/149 IPC, registered at Police Station City Sangrur, District Sangrur and the consequential proceedings arising therefrom, are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the abovesaid observations made, both these petitions stand allowed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

13.10.2015
AK Sharma