

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

CRM-M-37892-2016 (O&M)

Date of decision : 08.03.2017

Anshu Sharma

...Petitioner(s)

Versus

State of Punjab and another

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Krishan Sehajpal, Advocate for the petitioner(s).

Mr. R.S. Nain, AAG, Punjab

Mr. Vikas Bali, Advocate for respondent No.2.

JITENDRA CHAUHAN, J. (Oral)

This petition has been filed under Section 482 of the Code of Criminal Procedure for quashing of Complaint case No.30958/2013 dated 04.09.2010 filed under Sections 436, 120-B and 511 of the Indian Penal Code (for short 'the IPC') titled as 'Prithpal Singh Bhatia VS. Anshu Sharma and others' (Annexure P-1); summoning order dated 13.08.2015 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Jalandhar; order of charge dated 16.08.2016 (Annexure P-3); and all consequential proceedings arising therefrom, on the basis of compromise arrived at between the parties.

Vide order dated 22.10.2016, the parties were directed to appear before the trial Court/Illaq Magistrate, for getting their statements

recorded. In compliance thereof, report of learned Addl. Sessions Judge, Jalandhar, dated 17.11.2016, has been received, wherein, it has been noticed that the compromise between the parties is genuine, voluntary and reached without any pressure and undue influence.

Hon'ble the Supreme Court in ***Gian Singh Vs. State of Punjab and another, 2012(4) RCR (Criminal) 543***, has observed 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 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 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, . 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 predominatingly 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.”

In *Narinder Singh and Others Vs. State of Punjab and Another* (2014) 6 SCC 466, it has been observed thus:-

“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:

(I) 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.

(II) 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.

(III) Such a power is not 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.

(IV) On the other, 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.

(V) 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.

(VI) Offences under Section 307 IPC 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 IPC 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 IPC 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 IPC. 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.

(VII) 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 IPC 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 IPC 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.”

The matter stands compromised. It will be in the larger interest of society and particular interest of the parties in case the present complaint is quashed. The compromise is a quintessential of a modern society. It is not only the parties that benefit from such an arrangement but also the society at large when enmity between the parties is discouraged.

Hon'ble Division Bench of this Court in the case of ***Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (Criminal) 102***, has made the following observations:-

“In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Cr.P.C. after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.”

In ***Parambir Singh Gill Vs. Malkiat Kaur, 2010(1) RCR (Criminal) 256***, this Court has observed as under:-

“8. In **Hawa Singh and others v. Bishamber Dayal**, 2007(1) RCR(Crl.) 325 (P&H), the parties in the said case were employees of the Haryana Roadways. The complainant therein had filed a complaint under Section 3(ix) and (x) of the Act. With the intervention of other employees of the department, a compromise was effected between the parties which was reduced into writing. It was stated in the compromise that there were temperamental differences between complainant and the accused, due to which the complainant had filed the complaint. The complainant had agreed to withdraw the complaint and had specifically stated that he had compromised the matter without any pressure. Keeping in view the fact that the parties were serving in the same department and had compromised the matter besides, the complainant did not want to pursue the complaint, the complaint as well as the summoning order were quashed. In **Usha Gupta v. Amir Chand**, 2001(1) RCR(Crl.) 788 (P&H), the petition was filed for quashing the complaint that had been filed under Sections 298/504 Indian Penal Code and Section 3(x) of the Act as the entire matter had been settled between the parties by way of compromise. This Court observed that since both the petitioner and respondent were working in the same department/hospital, both the parties had amicably settled their dispute. The complainant had given an affidavit to the effect that he had reached a compromise with the petitioner. The compromise was accepted and the complaint was quashed. A reference was made to the decision in the case of **Shankuntla Sahni v. Kaushalya Sahni**, (1980)1 SCC 63 which was cited in support of the

submission that a compromise ought to be encouraged by the Court.

*9. The object of the Act is to provide for prevention and punitive measures to protect the members of Scheduled Castes and Scheduled Tribes from being victimised and where atrocities are committed, to provide adequate relief and assistance to rehabilitate them. Besides, it is a measure to preserve their self respect and honour. The fact that the matter has been compromised, does assuage the feelings of the members of the Scheduled Castes and provides for protection of their self respect and honour. The compromise indeed is a measure to provide adequate relief and assistance to members of the Scheduled Castes for their rehabilitation and to live with dignity. Therefore, it is personal in nature. In **Madan Mohan Abbot v. State of Punjab**, 2008(2) RCR (Criminal) 429 : 2008(2) RAJ 529 : (2008)4 SCC 582 it was emphasised that dispute where the question involved is of a purely personal in nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings. Besides, in **Kulwinder Singh and others v. State of Punjab and another**, 2007(3) RCR (Crl.) 1052 a larger Bench of five Judges of this Court observed as follows :-*

“The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Criminal

Procedure Code or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code

The Compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is sued to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is 'finest hour of justice'. Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Criminal Procedure Code in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation."

Hence, in view of the report of learned Addl. Sessions Judge, Jalandhar, dated 17.11.2016 made in pursuance of the order dated 22.10.2016 passed by this Court; and the guidelines laid down by Hon'ble the Supreme Court, Hon'ble Division Bench of this Court and in case of Parambir Singh Gill (supra), this Court feels that no useful purpose would be served in keeping the proceedings alive. It will be in the interest of justice, if the settlement reached between the parties is accepted.

Accordingly, the present petition is allowed. Complaint case No.30958/2013 dated 04.09.2010 filed under Sections 436, 120-B and 511 IPC titled as 'Prithpal Singh Bhatia VS. Anshu Sharma and others' (Annexure P-1); summoning order dated 13.08.2015 (Annexure P-2) passed

by learned Judicial Magistrate 1st Class, Jalandhar; order of charge dated 16.08.2016 (Annexure P-3) and all consequential proceedings arising therefrom are hereby quashed qua the present petitioner on the basis of compromise.

08.03.2017

ashok

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned: Yes / No

Whether reportable: Yes / No