

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

Crl. Misc. No. M-16767 of 2018 (O&M)

Date of decision: September 12, 2018

Ajay and others

.. Petitioners

Versus

Rajesh and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. Arvind Bansal, Advocate
for the petitioners.

Mr. K.C. Rajput, Advocate
for respondent No.1.

Mr. Deepak Grewal, D.A.G. Haryana.

SURINDER GUPTA, J.(Oral)

The petitioners have filed this petition under Section 482 Code of Criminal Procedure (for short, 'Cr.P.C.') seeking quashing of complaint No.RBT-44 of 2015 titled "*Rajesh Vs. Ajay etc.*" (Annexure P-1) filed for offence punishable under Sections 323, 325, 452, 343, 120-B, 506 Indian Penal Code (for short-IPC) along with judgment of conviction and order of sentence dated 31.3.2017 passed by Judicial Magistrate Ist Class, Kaithal, whereby they have been convicted and sentenced for the offences punishable under Sections 323, 325, 452, 342, 506 and 120-B of IPC along with all consequential proceedings arising therefrom, on the basis of the compromise (Annexure P-3 and P4).

Report of Judicial Magistrate Ist Class, Kaithal dated 19.6.2018 has been received, wherein it has been stated that the parties have

compromised the matter with their free will, without any pressure, inducement or influence. The compromise was also found to be voluntary and genuine.

As per case of complainant, on 16.10.2012 at about 10.30/11.00 a.m. when he along with his father was present at his house, accused persons (petitioners herein) entered his house to inquire regarding theft on 14.10.2012 in the house of Ramesh and forcibly dragged him out. Rajeev (petitioner no.2) inflicted *danda* blow on his right foot and remaining accused gave him slaps. They forcibly put him in the police jeep and illegally detained him in police lock up of Police Post Pundri from 16.10.2012 to 18.10.2012.

Learned trial Court convicted the petitioners for offences punishable under Section 323, 325, 452, 342, 506, 120-B IPC and sentenced them as follows :-

<i>Under Section</i>	<i>Sentence</i>
323 IPC	Rigorous imprisonment for one year and to pay fine of ₹500/- each. In default of payment of fine to further undergo simple imprisonment for 15 days
325 IPC	Rigorous imprisonment for two years and to pay fine of ₹1000/- each. In default of payment of fine to further undergo simple imprisonment for 15 days
452 IPC	Rigorous imprisonment for two years and to pay fine of ₹1000/- each. In default of payment of fine to further undergo simple imprisonment for one month.
342 IPC	Rigorous imprisonment for six months and to pay fine of ₹500/- each. In default of payment of fine to further undergo simple imprisonment for one month.
506 IPC	Rigorous imprisonment for one year and to pay fine of ₹500/- each. In default of payment of fine to further undergo simple imprisonment for one month.
120-B IPC	Rigorous imprisonment for six months and to pay fine of ₹500/- each. In default of payment of fine to further undergo simple imprisonment for one month.

Against their conviction, they filed appeal which is pending

before the Additional Sessions Judge, Kaithal.

The only question which arise for consideration in this petition is whether the complaint can be quashed after conviction of an accused, during the pendency of the appeal. To find the answer to the above query, reference may be made to the observations in case of ***Sube Singh Vs. State of Haryana 2013 (4) R.C.R. (Criminal) 102***, wherein Division Bench of this Court took the following questions for determination:

“(1) Whether the power exercisable by the High Court under Section 482 Cr.P.C. is controlled by Section 320 Cr.P.C. or it can be invoked in an appropriate case even if the offences are not compoundable in nature?

(2) Whether criminal proceedings can be quashed by the High Court in exercise of its power under Section 482 Cr.P.C. even after the accused was found guilty and convicted by the trial court though the matter is *sub judice* before the appellate court?

While answering question No.2, it was observed by Hon'ble Division Bench in para 17 of the judgment as follows:-

“(17) The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Cr.P.C. with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Cr.P.C. but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.”

Similar question arose before a Co-ordinate Bench in case of ***Baghel Singh Vs. State of Punjab 2014(3) RCR (Criminal) 578***, wherein it

was observed as follows:-

“6. This Court in authorities reported as *Lal Chand v. State of Haryana, 2009 (5) RCR (Criminal) 838* and *Chhota Singh v. State of Punjab, 1997(2) RCR (Criminal) 392*, allowed the compounding of offence in respect of offence under Section 326 I.P.C. at the Appellate stage, where the Court came to the conclusion that it will be a starting point in maintaining peace between the parties.”

Other Co-ordinate Bench of this Court also took similar view in case *Balbir Singh and others Vs. State of Punjab and another (CRM-M-3991-2015 decided on 29.04.2015)* and *Surender and another Vs. State of Haryana and another (CRM-M-43225 of 2016 decided on 04.04.2018)* and allowed quashing of FIR on the basis of compromise after conviction.

In case of *Gian Singh Vs. State of Punjab and Ors 2012 (10) SCC 303*, Hon'ble Apex Court while discussing the scope and extent of inherent powers of High Court in quashing the criminal proceedings has observed as follows:-

“48. The question is with regard to the inherent power of the High Court in quashing the criminal proceedings against an offender who has settled his dispute with the victim of the crime but the crime in which he is allegedly involved is not compoundable Under Section 320 of the Code.

49. Section 482 of the Code, as its very language suggests, saves the inherent power of the High Court which it has by virtue of it being a superior court to prevent abuse of the process of any court or otherwise to secure the ends of justice. It begins with the words, 'nothing in this Code' which means that the provision is

an overriding provision. These words leave no manner of doubt that none of the provisions of the Code limits or restricts the inherent power. The guideline for exercise of such power is provided in Section 482 itself i.e., to prevent abuse of the process of any court or otherwise to secure the ends of justice. As has been repeatedly stated that Section 482 confers no new powers on High Court; it merely safeguards existing inherent powers possessed by High Court necessary to prevent abuse of the process of any Court or to secure the ends of justice. It is equally well settled that the power is not to be resorted to if there is specific provision in the Code for the redress of the grievance of an aggrieved party. It should be exercised very sparingly and it should not be exercised as against the express bar of law engrafted in any other provision of the Code.

50. In different situations, the inherent power may be exercised in different ways to achieve its ultimate objective. Formation of opinion by the High Court before it exercises inherent power Under Section 482 on either of the twin objectives, (i) to prevent abuse of the process of any court or (ii) to secure the ends of justice, is a sine qua non.

51. In the very nature of its constitution, it is the judicial obligation of the High Court to undo a wrong in course of administration of justice or to prevent continuation of unnecessary judicial process. This is founded on the legal maxim quando lex aliquid alicui concedit, conceditur et id sine qua res ipsa esse non potest. The full import of which is whenever anything is authorised, and especially if, as a matter of duty, required to be done by law, it is found impossible to do that thing unless something else not authorised in express terms be also done, may also be done, then that something else will be

supplied by necessary intendment. Ex debito justitiae is inbuilt in such exercise; the whole idea is to do real, complete and substantial justice for which it exists. The power possessed by the High Court Under Section 482 of the Code is of wide amplitude but requires exercise with great caution and circumspection.”

Adverting to the facts of the case, parties have mutually settled their dispute. Keeping all the above facts in view, I am of the considered opinion that it is a fit case in which the impugned complaint should be quashed. Keeping the case pending will not serve the ends of justice. The quashing of the complaint will provide the parties to this petition an opportunity to live in an amicable, peaceful and harmonious atmosphere which is not only in the interest of the parties but also for their families and ultimately the society at large.

For the reasons as discussed above, the instant petition is allowed and the impugned complaint No.RBT-44 of 2015 titled “*Rajesh Vs. Ajay etc.*” (Annexure P-1) filed for offence punishable under Sections 323, 325, 452, 343, 120-B, 506 IPC and judgment of conviction and order of sentence both dated 31.3.2017 passed by Judicial Magistrate Ist Class, Kaithal, convicting them for the offence punishable under Sections 323, 325, 452, 343, 120-B, 506 IPC IPC, along with all consequential proceedings arising therefrom, qua petitioners, are quashed.

(SURINDER GUPTA)
JUDGE

September 12, 2018
Sachin M.

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No