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

Crl. Misc. No. M-19073 of 2018(O&M)
Date of decision : 12.09.2018

Shashi Bala @ Balbir Kaur and others

..... Petitioners

versus

Jatinder Singh & another

... Respondents

CORAM:- HON'BLE MRS. JUSTICE ANITA CHAUDHRY

Present: Mr. S.K. Bawa, Advocate
for the petitioners.

Mr. S.K. Virk, Advocate
for respondent no.1.

Mr. Jagmohan Ghumman, DAG, Punjab,
counsel for respondent No.2-State.

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ANITA CHAUDHRY , J.

The trial of the petitioners in criminal complaint No.147/1/2010 dated 10.09.2010, (Annexure P-1) filed under Sections 307, 323, 324, 452, 506, 34 IPC (summoned under Sections 323, 324, 452, 148, 149 IPC) has culminated into their conviction under Sections 323/324/148/149 IPC and they have been substantively sentenced to undergo rigorous imprisonment for a period of 1½ year. They have challenged the order of conviction and sentence by way of an appeal before the learned Sessions Court, Jalandhar. During the pendency thereof, it is claimed that the parties have entered into compromise with the intervention of respectable persons. Compromise-deed (Annexure P-4) has been placed on record.

Report has been called from the Appellate Court, after

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statements of the parties was recorded regarding the compromise. The Appellate Court has reported that the compromise is voluntary and without any pressure or coercion. The Appellate Court has also sent copy of the statements of parties.

Learned counsel appearing for the complainant states that the complainant has no objection if the proceedings are quashed and the judgment and order of conviction and sentence are set aside.

Hon'ble the Apex Court in **Gian Singh Vs. State of Punjab & Ors. 2012(10) SCC 303** has held as under:-

> *"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*

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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."

In **State of Karnataka v. L. Muniswami, AIR 1977 SC 1489,** the Hon'ble Supreme Court has observed that the ends of justice are higher than ends of mere law, though justice has got to be administered according to the laws made by the legislature yet the Court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution.

The Larger Bench of this Court in the case of **Kulvinder Singh & Ors. Vs. State of Punjab & Anr. 2007(3) RCR (Criminal) 1052,** while

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discussing the scope of quashing of prosecution on the basis of compromise, by this Court in exercise of powers under Section 482 Cr.P.C., even in non-compoundable offence(s) has held that there is no statutory bar under the Cr.P.C. which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

In the case of **Sube Singh & Anr. State of Haryana & Anr. Crl. Misc. No. M-38140 of 2011, decided on 09.04.2018,** a Division Bench of this Court while dealing with the question, as to whether the criminal proceedings can be quashed in exercise of powers under Section 482 Cr.P.C. even after the accused was found guilty and convicted by the trial court and the matter is sub-judice before the appellate Court, answered the reference in the affirmative. Relying upon the decisions rendered in **Kulwinder Singh** and **Gian Singh** (supra), the Court observed as under:-

> *"16. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Cr.P.C. with a view of 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."*

It has further been held that:

> *"20 ... Since there is no statutory embargo against invoking of power under Section 482 Cr.P.C. after conviction*

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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."

Adverting to the facts of present case, the parties have mutually settled their dispute and have buried the hatchet. There is nothing on record which is suggestive of the fact that the petitioners are pervious convicts or they have caused injuries to any other person during the pendency of trial/appeal.

Keeping in view the pronunciation of law and also the facts, in my opinion, it would be a fit case to exercise the powers under Section 482 Cr.P.C.

Therefore, the instant petition is allowed. Consequently, the above said criminal complaint and all other consequent proceedings thereto, qua the petitioners are quashed. The judgment and order of conviction and sentence are also set aside.

(ANITA CHAUDHRY)
JUDGE

September 12, 2018
sunil

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No