

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

CRM-M-35108-2016

Date of decision: 23.10.2018

Vijay Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJ SHEKHAR ATTRI

Present: Mr. Tajinder Pal Singh Makkar, Advocate
for the petitioner.

Ms. Samina Dhir, DAG, Punjab.

Mr. Gagandeep Singh, Advocate for
Mr. Neeraj Madaan, Advocate
for respondents No.2 to 4.

RAJ SHEKHAR ATTRI, J.(Oral)

By invoking Section 482 of the Code of Criminal Procedure, the petitioner has prayed for quashing of FIR No.121 dated 18.09.2010, under Sections 279, 304-A of the Indian Penal Code (for short 'IPC'), registered at Police Station Sadar Malout, District Sri Muktsar Sahib and subsequent proceedings arising on the basis of compromise (Annexure P-2).

In the present case, the FIR was registered on the statement of Satnam Singh son of Dayal Singh. Now, dispute between the parties has been resolved.

This case has distinguished features. In fact the accident taken place between a pedestrian (victim) and the motorcycle bearing registration No.HR-51-C-0931 driven by Sukhdeep Singh. He hit the speedily running motorcycle with the victim and the victim fell down in front of the running car due to which the car ran over him. There was no time for the driver of the car to stop it as the deceased suddenly fell in front of the car.

In this case no case is made out if petitioner was negligent or

The FIR qua Sukhdeep Singh has already been quashed by the coordinate bench of this court vide CRM-M-13678-2014 decided on 03.11.2015 with following observations:-

“The above-said view taken by this Court also finds support from the judgment 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 & another, 2014 AIR (SC) 3649 and Narinder Singh and others v. State of Punjab and another, 2014 (6) SCC 466.”**

Perusal of allegations in the FIR reveals that the present case squarely falls in the category of cases that can be quashed by the High Court, in exercise of its inherent power under Section 482 Cr.P.C. Keeping in view authoritative enunciation of law laid down by Hon'ble the Supreme Court in **'Gian Singh v. State of Punjab and another', 2012 (4) R.C.R. (Criminal) 543** and in the light of facts and circumstances discussed hereinbefore, this

would amount to abuse of process of law and it is expedient in the interest of justice that the same are put to an end.

For the foregoing reasons, the petition is allowed and FIR No.121 dated 18.09.2010, under Sections 279, 304-A IPC, registered at Police Station Sadar Malout, District Sri Muktsar Sahib and subsequent proceedings arising therefrom on the basis of compromise stands quashed qua the petitioner.

October 23, 2018
m. sharma

(RAJ SHEKHAR ATTRI)
JUDGE

Whether speaking/reasoned	:	yes/no
Whether reportable	:	yes/no