

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

CRM-M-11211-2018

Date of decision: 29.03.2019

AMARJEET SINGH SOHAL AND OTHERS

.... Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.... Respondents

CORAM : HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Mayur Karkar, Advocate and
 Ms.Aashna Gill, Advocate for the petitioners

Mr.Kirat Singh Sidhu, D.A.G., Punjab

ARUN KUMAR TYAGI, J. (Oral)

The petitioners have prayed for quashing of FIR No.79 dated 04.07.2013 registered against them regarding alleged commission of offences punishable under Sections 323, 452, 295, 427, 148, 149 and 506 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station, Mehatpur, District Jalandhar on the basis of the compromise dated 28.01.2019 effected by them with respondent no.2-Mahinder Singh alias Bhinder.

Vide order dated 11.02.2019, the parties were directed to appear before the trial Court/Illaq Magistrate on 28.02.2019 for getting their statements recorded regarding the genuineness of the compromise dated 28.01.2019 effected between the parties and the trial Court/Illaq Magistrate was directed to send a report to this Court before the next date of hearing i.e.

29.03.2019 after recording the statements of the parties.

A report dated 01.03.2019 has been received from Judicial Magistrate 1st Class, Nakodar, wherein it has been submitted as under :

“It is submitted that an FIR bearing no.79 was registered on the statement of complainant Mahinder Singh on 04.07.2013 under Section 323, 452, 295, 427, 506, 148, 149 of IPC at P.S. Nakodar, Distt. Jalandhar against accused Amarjit Singh Sohal, Joginder Kaur, Balvir Singh @ Baggi, Sarwan Singh, Harmesh Singh, Parvinder Singh, Lakhbir Singh, Shashi Kumar, Balkar Ram, Jagjiwan, Balwinder @ Banti, Harnek Singh, Kuldeep Singh, Jaswinder Singh and Lachhman Singh but after thorough investigation the investigating agency submitted a cancellation report in the said FIR. However, vide order dated 01.12.2017, passed by Sh.RS Rana, the then Ld. JMIC, Nakodar the said cancellation report was rejected and treated as regular challan and all the accused were ordered to be summoned to face trial u/s 323, 452, 295, 427, 506, 148, 149 of IPC. However, with the intervention of the respectable persons from both the parties a compromise has been effected between them. A joint statement of the accused Amarjit Singh Sohal, Joginder Kaur, Balvir Singh @ Baggi, Sarwan Singh, Harmesh Singh, Parvinder Singh, Lakhbir Singh, Shashi Kumar, Balkar Ram, Jagjiwan, Balwinder @ Banti, Harnek Singh, Kuldeep Singh, Jaswinder Singh and Lachhman Singh have been recorded regarding the compromise. Statement of the complainant Mahinder Singh has also been recorded to that effect. At present, as per the statements made by the above said accused, they have entered into compromise with each other. As per the statements so recorded by both sides, it can be deduced that the compromise is genuine, voluntary, without any coercion and without any undue influence and the same has been effected with the free will and consent of the parties.”

Learned Counsel for the petitioners has submitted that no other criminal case is pending between the parties and the petitioners have not been declared proclaimed offender.

Learned State Counsel has not disputed the fact that the parties have arrived at a settlement with an intent to resolve the dispute and restore harmony between them.

I have heard learned Counsel for the parties and perused the relevant record.

After perusing the report submitted by the trial Court, I am of the considered view that the matter has been amicably settled between the petitioners and respondent no.2 by way of compromise.

In Kulwinder Singh and others vs State of Punjab, 2007 (3) RCR (Criminal) 1052 while answering the reference Hon'ble Full Bench of this Court observed as under :-

27. 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.

28. 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 used 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.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Criminal Procedure Code is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the

Criminal Procedure Code has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and everlasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

Hon'ble the Supreme Court in the case of **Gian Singh vs State of**

Punjab and another 2012 (4) RCR (Criminal) 543 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, etc. 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.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of what has been discussed herein above, the petition is allowed and FIR No.79, dated 04.07.2013 registered under Sections 323, 452, 295, 427, 148, 149 and 506 of the IPC in Police Station, Mehatpur, District Jalandhar and proceedings emanating therefrom are quashed, qua the petitioners, subject to payment of costs of Rs.3,000/- to be deposited with the District Legal Services Authority, Jalandhar.

(ARUN KUMAR TYAGI)
JUDGE

29.03.2019
Kavneet Singh

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No