

Gaurav Kumar and others

...Petitioners

Versus

State of Punjab and another

...Respondent(s)

CORAM:- HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr.Ishan Sharma, Advocate for the petitioners.
Mr.Hittan Nehra, Addl. A.G., Punjab.
Mr.Lalit Kumar Sharma, Advocate for respondent No.2.

ANIL KSHETARPAL, J.

Petitioners have filed instant petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') invoking its inherent jurisdiction on the basis of mutual settlement, for quashing of FIR No.47 dated 20.03.2012 registered under Sections 323/324/341/34 IPC at Police Station Model Town, District Hoshiarpur as well as the judgment dated 05.01.2019 passed by the learned Additional Chief Judicial Magistrate, Hoshiarpur, whereby the petitioners were convicted and sentenced as under:-

Name of accused	Sentence	Sentence
1.Gaurav Kumar 2.Ankush @ Honey and 3.Amit Bedi	U/s 323 IPC read with Section 34 IPC	Rigorous imprisonment for a period of 6 months and fine of Rs.500/- each in default of payment of fine further undergo simple imprisonment for 1 month.
	U/s 326 IPC read with Section 34 IPC	Rigorous imprisonment for a period of 2 years and fine of Rs.5000/- each in default of payment of fine further undergo simple imprisonment for 6 months
	U/s 341 IPC read with Section 34 IPC	Rigorous imprisonment for a period of 1 month and fine of Rs.500/- each in default of payment of fine further undergo simple imprisonment for 7 days.

Notice of motion was issued and the parties were directed to remain present in this Court on the next date of hearing.

Today, the petitioner-accused Gaurav Kumar and complainant/respondent No.2 are present, duly identified by their respective counsels. They have filed their respective affidavits in Court today admitted correctness of the compromise/settlement.

Learned counsel for the petitioners and counsel for the complainant/respondent no.2 pray that in view of the aforesaid facts, the FIR and all subsequent proceedings emanating therefrom be quashed.

Counsel for the State of Punjab states that in view of the settlement between the parties, the State would not stand in the way of the settlement and would not oppose the quashing of the FIR and all subsequent proceedings emanating therefrom.

This Court has heard learned counsel for the parties and perused the affidavits filed by the parties.

In the considered opinion of this Court, it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the parties have arrived at an out of Court settlement by way of compromise. The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

For the aforesaid view, this Court finds support from ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and ***Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303***.

A 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 examined in detail the desirability of the Court to permit compounding of offence which are not otherwise compoundable under Section 320 of the Code of Criminal Procedure by the High Court in exercise of powers under Section 484 of the Code of Criminal Procedure. After examining various judgments passed by the Courts, the Division Bench held as under:-

“17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code 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 Criminal Procedure Code 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.”

In the end, learned counsel for the petitioners submitted that a lenient view be taken because the occurrence took place in the year 2011.

This court on consideration of the matter finds that there is some substance in the argument of learned counsel for the petitioners. No overt act after the occurrence in question is attributed to the petitioners.

Keeping in view the aforesaid facts, the sentence awarded to the petitioners is reduced to the period already undergone. This order has been passed in the peculiar facts and circumstances of the present case and shall not be treated as precedent.

Resultantly, with the above-said observations made, the instant petition stands allowed.

04.12.2019
mks

(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No