

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

CRM-M-8938-2021

Date of decision : 18.11.2021

Harwinder Singh and others

..... Petitioners

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Paramjit Singh Paul, Advocate
for the petitioners.

Mr. Harpreet S. Multani, AAG, Punjab.

Mr. Bhupender Banga, Advocate
for respondents No.2 and 3.

(Through Video Conferencing)

PANKAJ JAIN, J. (Oral)

By way of present petition, the petitioners are seeking quashing of FIR No. 392 dated 30.11.2021 under Sections 323, 307, 506, 325, 201, 148 and 149 of IPC, registered at Police Station Sohana, District SAS Nagar, Mohali on the basis of compromise deed dated 19.02.2021 (Annexure P-4).

On 10.08.2021, the following order was passed:-

“ The Court has been convened through video conferencing due to Covid-19 Pandemic.

CRM-23587-2021

Prayer made in the application is for preponement of the hearing of main case, which is fixed for 18.11.2021.

Noticing the prayer made in the application, it is allowed.

Hearing of the main case is preponed to today and it is ordered to be taken on Board.

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On 26.02.2021, this Court passed the following orders:-

“Instant petition has been filed under Section 482 Cr.PC for quashing the FIR No.392 dated 30.11.2020 for the offences under Sections 323, 307, 506, 325, 201, 148, 149 IPC at Police Station Sohana District SAS Nagar, Mohali and all other consequential proceedings arising therefrom on the basis of compromise (Annexure P-4).

Learned counsel for the petitioners has invited the attention of this Court to Annexure P-3, which is an opinion of the Medical Officer qua the injuries received by the injured in the occurrence in question. He further submits that none of the injuries received by the injured has been opined to be dangerous to life rather it has been opined by the doctor that all the injuries were blunt in nature. He further submits that the opinion of the doctor cannot be faulted with as it also corroborates the statement of the complainant made at the time of registration of FIR wherein he too stated that the accused party was alleged to have been armed with bamboo sticks and allegedly inflicted blows with the sticks on the person of the injured.

Mr. Bhupinder Banga, Advocate has put in appearance on behalf of respondents No.2 and 3 and filed vakalatnama in Court today, which is taken on record subject to all just exceptions. He does not dispute the factum of compromise having been effected between the parties and also does not controvert the submissions made by learned counsel

for the petitioners qua the injuries received by the injured in the occurrence in question. It has also been submitted that though challan has been presented, however, charges have not yet been framed by the trial Court.

Notice of motion to the respondent-State for 29.04.2021.”

The parties are directed to appear before the Illaqa Magistrate/trial Court on 01.09.2021 or on any subsequent date to be fixed by the trial Court for getting their statements recorded with regard to the compromise. The Illaqa Magistrate/trial Court shall submit the report on or before the next date of hearing. The report be forwarded to this Court specifying the following:-

1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;
2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;
3. the stage of trial/proceedings;
4. if the compromise is genuine, voluntary and out of free will of the parties;
5. whether any other criminal case is pending against the accused.

Report of the Illaqa Magistrate/trial Court be awaited for 18.11.2021.”

Today, report from Additional District and Sessions Judge, SAS Nagar, (Mohali) dated 22.10.2021 has been received. As per the report, the trial Court has recorded at its satisfaction with respect to

genuineness of the compromise and has submitted as follows:-

“ Keeping in view the statements of the complainant, injured/victim and accused, it is submitted that it appears that the compromise between the complainant Jarnail Singh, victim/injured Surinder Singh and accused namely Jagtar Singh, Harwinder Singh, Gurjant Singh, Avtar Singh and Harshpreet Singh of the FIR No.392 dated 30.11.2020, under Sections 323, 307, 506, 325, 201, 148 and 149 of IPC, Police Station Sohana, District SAS Nagar (Mohali) has been effected voluntarily, out of their free will and without any inducement, threat or promise from any quarter and the same is genuine one. As per the statement of investigating officer, none of the accused of the present FIR, has been declared as proclaimed offender in the present case and none of the accused of the present FIR has been involved in any other FIR or criminal case.

Copies of statements of the investigating officer ASI Ram Bhagat, No.520/SAS Nagar (Mohali) recorded in the above said FIR as well as the complainant, victims and accused persons of the above said FIR and copies of ID cards/aadhar cards are attached herewith as per directions.”

Since the parties have compromised and have decided to bury the hatchet, it will not serve any purpose to force the parties to continue their litigation.

Though Section 307 is not compoundable but the dispute between the parties has been resolved amicably. In **Kulwinder Singh and others vs. State of Punjab and others** reported as **2007 (3) RCR (Criminal) 1052**, Full Bench of this Court held as under :-

“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 Cr.P.C. 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.”

Hon'ble Supreme Court in *Criminal Appeal No.1489 of 2012, titled as Ramgopal and another vs. The State of Madhya Pradesh* has also held:-

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extraordinary power enjoined upon a High Court

under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

Keeping in view the facts of present case and the law, I deem it appropriate to quash the FIR No. 392 dated 30.11.2021 registered under Sections 323, 307, 506, 325, 201, 148 and 149 of IPC at Police Station Sohana, District SAS Nagar, Mohali and all the consequential proceedings arising therefrom.

Accordingly, the petition is allowed. The abovesaid FIR alongwith subsequent proceedings are hereby quashed.

(PANKAJ JAIN)
JUDGE

18.11.2021

Dinesh

Whether speaking/reasoned

Yes

Whether Reportable :

No