

228 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-22205-2021 (O&M)
Date of decision-18.11.2021

Sinder Kaur

...Petitioner

Vs.

State of Punjab and another

..Respondents

CORAM:- HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Ms. Usha Rani, Advocate for
Mr. Rakesh Gupta, Advocate for the petitioner.

Mr. H.S. Multani, Assistant Advocate General, Punjab.

Mr. Arjun Attri, Advocate for respondent No.2-complainant.

(Through Video Conferencing)

PANKAJ JAIN, J. (Oral)

Petitioner has approached this Court seeking quashing of FIR No.17 dated 09.02.2021 under Sections 328 and 326 IPC registered at Police Station Sadar Raikot, District Ludhiana (Annexure P-1) and proceedings arising out of the same on the basis of compromise dated 07.05.2021 (Annexure P-2).

On 05.07.2021, the following order was passed:-

“[1]. This petition filed under Section 482 Cr.P.C. seeks quashing of FIR No.0017 dated 09.02.2021 under Sections 328 & 326 of the IPC registered at Police Station Sadar Raikot, District Ludhiana (Annexure P-1), and all subsequent proceedings arising therefrom, on the basis of

compromise.

[2]. Ld. Counsel for the petitioner refers to Panchayati Compromise (Annexure P-2), and states that the matter has been amicably settled between the parties.

[3]. Notice of motion.

[4]. Mr. B.S. Sewak, Additional Advocate General, Punjab to accept notice on behalf of respondent No.1/State.

[5]. At this stage, Mr. Arjun Atri, Advocate has put in appearance on behalf of respondent No.2-complainant through V.C. and admits the factum of compromise. He undertakes to file his Power of Attorney on the next date of hearing.

[6]. Let requisite number of copies of the Paperbook be supplied to both the Counsel.

[7]. In view of the matter, the parties shall appear before the Trial Court/Illaq Magistrate on 30.07.2021, for getting their statements recorded with regard to the compromise arrived at between them. Ld. Trial Court/Illaq Magistrate after ensuring their identity as well as the fact that the statements are being made by them voluntarily and without any pressure, shall record the same and will submit its report well before the next date of hearing. The Magistrate shall also report about the veracity of the compromise apart from informing the names and number of the accused involved and whether

any of the accused has been declared proclaimed offender in the case.

[8]. List on 06.10.2021.”

Pursuant thereto, the parties appeared before the Judicial Magistrate Ist Class, Jagraon, whose report has been received. As per report submitted by JMIC, Jagraon, compromise has been found to be genuine and out of the free will of the parties. JMIC, Jagraon has reported as under:-

“Most humbly, it is submitted that in compliance of order dated 05.07.2021 passed by Hon’ble Justice Sudip Ahluwalia, Judge, Punjab and Haryana High Court, Chandigarh, in CRM-M-22205-2021 titled ‘Sinder Kaur Vs. State of Punjab and another’, vide which the undersigned has been directed to record the statements of parties with regard to the compromise effected between them. In compliance of the same, separate statement of respondent/complainant Simranjit Kaur has been recorded. As per the statement, she has compromised the matter with petitioner/accused and the compromise is genuine, voluntary and without any coercion or undue influence and also stated that she has no objection if FIR registered against petitioner/accused be quashed. She has placed on record self attested photocopy of her Aadhar Card. Separate statement of petitioner/accused namely Sinder Kaur also recorded regarding compromise and she has also placed on record self attested photocopy of her Aadhar card. There is no other accused arrayed in FIR and she is not proclaimed offender in this case. The notary attested copy of compromise effected between the parties placed on record and the same is Ex.C1. As per statement of the parties, the compromise appears to be voluntary, genuine and without any coercion or undue influence. Further, the

undersigned was asked whether any criminal proceedings are pending against either of the parties or not. In this regard, statement of concerned Naib Court was called and as per his statement no criminal case is pending against either of the parties.”

Though, offences punishable under Sections 326 and 328 of Indian Penal Code are non-compoundable, yet keeping in view the facts that the parties have arrived at amicable compromise and has decided to move on by burring the grudges, I deem it appropriate to allow this petition.

Needless to say, it is settled principle of law that Section 320 Cr.P.C. is not an embargo on the powers of the High Court under Section 482 Cr.P.C. as laid down by Hon’ble the Supreme Court of India in ***Criminal Appeal No.1489 of 2012*** titled ‘***Ramgopal and another Vs. The State of Madhya Pradesh***’, which read as under:-

“11 True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as noncompoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances

of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12 The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

18 It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the overarching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

19 We thus sumup 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 aforesaid principles of law laid down by Hon'ble the Supreme Court of India and the fact that the parties have arrived at amicable compromise, the present petition is allowed. FIR No.17 dated 09.02.2021 under Sections 328 and 326 IPC registered at Police Station Sadar Raikot, District Ludhiana (Annexure P-1) and all subsequent proceedings emanating therefrom are hereby quashed.

(PANKAJ JAIN)
JUDGE

18.11.2021

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