

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25585-2021

DECIDED ON:2nd November, 2021

Amit Arora and another

.....PETITIONERS

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Sandeep Arora, Advocate for petitioners.

Mr. V.G. Jauhar, Sr. DAG Punjab.

Mr. R.S. Bajaj, Advocate for respondents No. 2 and 3.

AVNEESH JHINGAN, J (ORAL)

(1) Due to COVID-19 situation, the Court is convened through video conference.

(2) On the basis of compromise quashing of FIR No. 100 dated 4.8.2019, under Sections 408, 120-B IPC, registered at Police Station Division No.7, Jalandhar and all the subsequent proceedings arising therefrom is sought in the present petitions.

(3) Brief facts are that FIR was registered on the statement of Sukhjot Singh. It is stated that he is having firm under the name of Pukhraj Health Care Pvt. Ltd. and petitioner Amit Arora had been employed as Accounts Manager in the aforesaid firm who did work for about 1 ½ years and was given salary of Rs.22,000/- per month. Amit Arora used to receive the amount from different firms and also do all the bank work. In the month of January, 2019, he received a call from Perfect Outdoor, Ludhiana, regarding outstanding payment of Rs.50,000/- towards him which has not been received by them and to release the same. When the complainant

checked the record it was found that on 25.10.2018 payment had been

released. On inquiry it was found that instead of making payments from accounts, Amit Arora has transferred the amount in some other account and in this way Amit Arora and his wife Neha Arora defrauded the complainant.

(4) On 7.7.2021 the parties were directed to appear before the trial Court for getting their statements recorded and State was granted time to file a reply.

(5) A report dated 1.10.2021 is received from the Chief Judicial Magistrate, Jalandhar stating that compromise is genuine, without any pressure or coercion. It is further stated that accused are not involved in any other FIR and none of accused was declared proclaimed offender.

(6) As per the facts, the root cause of the entire litigation was having a civil tenor. Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, has held:-

“The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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 noncompoundable 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.

The power under Section 482 of the Cr.P.C. 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 Cr.P.C. 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 ever-lasting 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.”

(7) The Supreme Court in ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another, 2017 AIR (SC) 4843*** has expounded principles governing the exercise of powers under Section 482 of Cr.P.C. The relevant portion is reproduced as under:-

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has

a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a

criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.”

- (8) The issue involved had tone and tenor of commercial dispute. Parties have settled the issue. To buy peace of mind they have decided to end the litigation. In view of subsequent development, there are bleak chances of conviction to meet the ends of justice, the above mentioned FIR with all subsequent proceedings arising therefrom are quashed.
- (9) The petition is allowed.

2nd November, 2021
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(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned *Yes*
Whether reportable *Yes*