

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

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**CRM-M-26644-2021
Decided on : 24.09.2021**

Gurmej Singh and another

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

(Through Video Conferencing)

PRESENT: Mr. K. S. Maangat, Advocate
for the petitioners.

Mr. Saurav Khurana, DAG, Punjab.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 40 dated 24.04.2021 registered under Section 406 IPC, 1860 in Police Station Sekhwan, District Gurdaspur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 06.05.2021 (Annexure P-2).

When the matter came up before a Co-ordinate Bench of this Court on 18.08.2021, the following order was passed:-

“The case has been taken up for hearing through video conferencing.

The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.40 dated 24.04.2021 registered under Section 406 of the Indian Penal Code, 1860 (for short 'the IPC') in Police Station Sekhwan, District Gurdaspur and all subsequent proceedings arising

therefrom on the basis of compromise dated 06.05.2021.

Mr. Varinder Basa, Advocate has appeared on behalf of respondent No.2 and filed his power of attorney through e-main print out of which is taken on record.

Learned Counsel for respondent No.2 admits the factum of compromise and also undertakes to file his original power of attorney in the Registry.

Accordingly, the private parties are directed to appear before the trial Court/Illaq Magistrate on 26.08.2021 or any other date convenient to the Court for recording their statements with regard to compromise/settlement. Trial Court/Illaq Magistrate is directed to submit a report before 24.09.2021 containing the following information:-

- 1. Number of persons arrayed as accused in FIR.*
- 2. Whether any accused is proclaimed offender.*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*
- 4. Whether the accused persons are involved in any other case or not.*
- 5. Current stage of the case.*

The trial Court/Illaq Magistrate is further directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.

The trial Court/Illaq Magistrate is also directed to send the report in time so as to reach this Court before the date of hearing fixed.

Reply by respondent No.1-State be filed on the date of hearing fixed, if so desired.”

In pursuance of the said order, a report has been submitted by the Judicial Magistrate 1st Class, Batala to the Deputy Registrar (Criminal) of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“After considering the statements of the parties as well as the statement of I.O., this Court is of the view that although there are total five accused persons however the compromise has been effected between the complainant/victim Partap Singh S/o Ratan Singh R/o village Tatla, Tehsil Batala, District Gurdaspur at present R/o H. No. 450, Niranjana Avenue, Quadian, Tehsil Batala, District Gurdaspur and petitioners/accused (1) Gurmej Singh S/o Inder Singh (2) Chamkaur Singh S/o Gurmej Singh R/o Village Koharh, Tehsil and District Gurdaspur only which is genuine, voluntary and without any coercion or undue influence.

The copy of the Adhaar Card of the complainant/respondent/victim person is Ex.C1 and the copies of the Adhaar Card of the petitioners/accused persons are Ex. A1 to Ex. A2.

Submitted please.”

A perusal of the said compromise would show that although the compromise is stated to be bonafide and genuine but it has been observed in the said report that there are total five accused persons, however, the compromise has been effected only between the complainant/victim Partap Singh and two persons/accused i.e. the present petitioners.

Learned counsel for the petitioners has relied upon a judgement of the Coordinate Bench of this Court dated 16.05.2017 passed in CRM-M-37395-2016 titled as *Rajinder Singh Vs. State of Punjab and another* to contend that even petition for quashing on the basis of a partial compromise, is also maintainable.

Learned State counsel has stated that as per the report of the JMIC, Batala, the compromise between the petitioners and the complainant is genuine and bonafide and there are 5 accused persons in the said case but the compromise has not been effected with all the five persons.

This Court has considered the arguments of learned counsel for the parties in Rajinder Singh's case (supra) in which the Coordinate Bench of this Court has held as under:-

{1}. Prayer in this petition under Section 482 Cr.P.C. is for quashing of FIR No. 50, dated 15.10.2011, under Sections 420 and 34 I.P.C., registered at Police Station Jhander, District Amritsar Rural (Annexure P-1) as well as all the subsequent proceedings arising therefrom, at the instance of the petitioner only, on the basis of compromise.

{2}. Three accused persons, namely Savinder Singh, Rajinder Singh (petitioner) and Ranjit Singh, were nominated in the aforesaid F.I.R. The compromise has been effected only qua the petitioner.

{3}. Learned counsel for the petitioner by relying upon Jayrajsingh Digvijaysingh Rana Vs. State of Gujarat and another, 2012 (4) R.C.R. (Criminal) 589, Parambir Singh Gill Vs. Malkiat Kaur, 2010 (4) R.C.R. (Criminal) 256 and CRM-M No. 18632 of 2014 titled Ashok Kumar Garg and another Vs. State of Punjab and others, decided on 07.08.2015, contended that partial quashing of the F.I.R. on the basis of compromise can be done.

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*{6}. The extent and sweep of inherent powers of the High Court under Section 482 Cr.P.C., for quashing criminal prosecution on merits as well as on the basis of compromise between the accused and the victim remained question of interpretation since long. The Hon'ble Apex Court after due consideration of judgments in **Madhu Limaye vs. State of Maharashtra, AIR 1978 Supreme Court 47, Bhajan Lal vs. State of Haryana and others, AIR 1992 Supreme Court 604 and State of Karnataka vs. L. Muniswamy and others, AIR 1977 Supreme Court 1489**, has summed up the controversy in*

State through Special Cell, New Delhi vs. Navjot Sandhu @ Afshan Guru and others, 2003(2) RCR (CrL) 860 (SC). The legal position summed up in the said judgment is in the following manner:-

“Thus, the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bound of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise. Section 482 of the Criminal Procedure Code starts with the words "Nothing in this Code". Thus the inherent jurisdiction of the High Court under Section 482 of the Criminal Procedure Code can be exercised even when there is a bar under Section 397 or some other provisions of the Criminal Procedure Code. However, as is set out in Satya Narayan Sharma's case (supra) this power cannot be exercised if there is a statutory bar in some other enactment. If the order assailed is purely of an interlocutory character,

which could be corrected in exercise of revisional powers or appellate powers the High Court must refuse to exercise its inherent power. The inherent power is to be used only in cases where there is an abuse of the process of the Court or where interference is absolutely necessary for securing the ends of justice. The inherent power must be exercised very sparingly as cases which require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction. Most of the cases set out herein above fall in this category. It must be remembered that the inherent power is not to be resorted to if there is a specific provision in the Code or any other enactment for redress of the grievance of the aggrieved party. This power should not be exercised against an express bar of law engrafted in any other provision of the Criminal Procedure Code. This power cannot be exercised as against an express bar in some other enactment.”

*{7}. Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (CrL) 1052** considered the scope of powers under Section 482 Cr.P.C., to hold that High Court has powers to quash prosecution in order to achieve ends of justice and to prevent abuse of process of law. These powers are not limited to matrimonial dispute alone, rather these powers are unlimited. However these powers are to be exercised very sparingly and with utmost care and caution. There is no statutory bar which can affect the inherent powers of High Court under Section 482 Cr.P.C. The powers under Section 482 Cr.P.C., is to be exercised Ex-Debita, justitia to prevent abuse of process of Court. {8}. In exercise of inherent powers under Section 482 Cr.P.C., criminal proceedings are not to be quashed where the offence is heinous in nature. Proceedings can only be quashed where the issue is overwhelmingly and predominantly of civil profile arising out of commercial, financial, mercantile and civil or matrimonial nature. In a way dispute may involve wrong which is basically private or*

personal in nature and the parties have redressed the same by entering into compromise.

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{9}. Taking into consideration totality of facts and circumstances, this Court is of the view that the case can be considered for quashing of FIR along with subsequent proceedings arising therefrom on the basis of compromise.

{10}. Resultantly, FIR No. 50, dated 15.10.2011, under Sections 420 and 34 I.P.C., registered at Police Station Jhander, District Amritsar Rural (Annexure P-1) and all the subsequent proceedings arising therefrom are hereby quashed qua the petitioner only.”

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 hereinabove, the petition is allowed and FIR No. 40 dated 24.04.2021 registered under Section 406 IPC, 1860 in Police Station Sekhwan, District Gurdaspur (Annexure P-1) and all subsequent proceedings arising therefrom on the basis of the compromise dated 06.05.2021 (Annexure P-2), are ordered to be quashed, qua the petitioners.

(VIKAS BAHL)
JUDGE

24.09.2021

Mehak

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No