

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

CRM-M-27336 of 2021

DECIDED ON: 9th September, 2021

Manpreet Kaur and another

.....PETITIONERS

VERSUS

State of Punjab and others

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. Amit Arora, Advocate for petitioners.

Ms. Monika Jalota, DAG, Punjab.

Mr. Jagjit Singh, Advocate for complainant.

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. 04 dated 8.1.2020, under Sections 452, 325, 323, 34 IPC, 1860, registered at Police Station Sirhali, District Tarn Taran and all the subsequent proceedings arising therefrom is sought by filing the present petition.

(3) The FIR was at the instance of Amritpal Kaur. As per the allegations, an incident took place on 3.1.2020. The dispute was result of over flowing the water from fields of one party to the other, thereby destroying wheat crops. The matter flared up and injuries were inflicted. During pendency of the proceedings, the parties entered into compromise Annexure P-2.

(4) On 19th July, 2021, the parties were directed to appear before the Illaqa Magistrate/trial court for getting their statements recorded with regard to

compromise.

(5) The report dated 26.8.2021 is received stating that the compromise is genuine, voluntary and without any coercion and undue influence. Further that there were only two accused (petitioners herein) and none of them has been declared as proclaimed offender.

(6) 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 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.

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 extraordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and everlasting 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 *State of Madhya Pradesh Vs. Laxmi Narayan and others*, (2019) 5 SCC 688, held:

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under [Section 307](#) IPC and the [Arms Act](#) etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under [Section 482](#) of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if

proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

(emphasis supplied)

(8) The dispute is amongst the real brothers. The differences have been abridged and there is an attempt to save the relationship. No useful purpose would be served by continuing with the trial. To meet the ends of justice, the FIR mentioned above and all consequential proceedings arising therefrom are quashed.

(9) The petition is allowed.

(AVNEESH JHINGAN)
JUDGE

9th September, 2021
reema

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>