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

CRM-M-47430-2017

Date of decision 29.10.2021

Swaran Singh

Petitioner

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Fariad Singh Virk, Advocate for the petitioner.

Ms. Monika Jalota, Deputy Advocate General, Punjab.

Mr. K.S. Sidhu, Advocate for the respondent No. 2.

AVNEESH JHINGAN, J (Oral):

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

[2] This petition under Section 482 Cr.P.C. is filed for quashing of F.I.R. No.210, dated 5th June, 2008 under Sections 406 and 420 of IPC, registered at Police Station Tripuri, District Patiala as well as judgment of conviction and order of quantum of sentence sentence dated 27th February, 2015 during pendency of appeal i.e. CRA/230/2015 before the Additional Sessions Judge, Patiala, in view of compromise dated 17th August, 2017.

[3] Brief facts of the case are that complaint was made by Balwinder Singh, respondent No. 2 [hereinafter 'complainant']. As per the allegations, the petitioner alongwith co-accused Dalip Sohal duped the complainant of Rs. 6,75,000/- on pretext of sending the son of the

complainant abroad. The amount was paid by the complainant at the residence of the petitioner. Neither the son of the complainant was sent abroad nor money was returned. The petitioner was convicted on 27th February, 2015 under Section 420 of IPC. Vide order of even date, he was sentenced to undergo rigorous imprisonment for a period of three years alongwith fine of Rs. 5,000/- and in default of payment of fine to further undergo simple imprisonment for one month.

[4] Aggrieved of the conviction, appeal was filed by the petitioner which is pending. Sentence of the petitioner was ordered to be suspended during the pendency of the appeal. Thereafter, compromise was effected between the parties on 17th August, 2017. Hence the present petition was filed.

[5] Vide order dated 28th August, 2018, the parties were directed to appear before the appellate Court for recording their statements with regard to compromise. A report dated 6th September, 2021 was received from the Additional Sessions Judge, Patiala. It is stated therein that compromise is voluntary, without any pressure or undue influence and appears to be genuine.

[6] Supreme Court in **Ramgopal V. State of Madhya Pradesh** in its judgement dated 29.09.2021 in Criminal Appeal No. 1489 of 2012 held:-

“13. It appears to us that criminal proceedings involving nonheinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying

*laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C., 1973 would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C., 1973 may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. v. State of Punjab & Ors., (2014) 6 SCC 466** and *Laxmi Narayan (Supra)*.*

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 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., 1973 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., 1973. 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."

[7] The dispute in the present case can be categorized as a commercial in nature. With the intervention of respectables, parties have compromised the matter. The allegations are related to the year 2008, there is nothing on record any untoward incident before or after

the compromise. The quashing of proceedings will help to advance peace and harmony and the step put forth by the parties to forgive and forget any ill-will.

[8] Considering the law laid down by the Supreme Court and the facts and circumstances of the present case, as a result of amicable settlement and compromise effected between the parties, the above mentioned FIR, order of conviction and sentence are quashed.

[9] The appeal pending before the Appellate Court stands infructuous.

[10] The petition is allowed.

[AVNEESH JHINGAN]
JUDGE

29th October, 2021

pankaj baweja

1. Whether speaking/ reasoned	:	Yes /No
2. Whether reportable	:	Yes /No