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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-30435-2021

Date of Decision: 31.08.2021

Naib Singh and another

Petitioners

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. S.S. Grewal, Advocate for the petitioners.

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

Mr. A.S. Mann, 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. 383, dated 9th December, 2019, under Sections 420 and 120-B IPC, registered at Police Station Talwandi Sabo, District Bathinda and all subsequent proceedings arising therefrom on the basis of compromise dated 25th July, 2021.

[3] An application was received from Gurnam Singh for registration of F.I.R. against the accused (petitioners). There was dispute with regard to sale of property. As per the allegations, the sale deed was got registered without making the payment to the complainant. During the pendency, the parties compromised the matter

and filed this present petition.

[4] On 2nd August, 2021, the parties were directed to appear before the Illaqa Magistrate/trial court for getting their statements recorded with regard to compromise dated 25th July, 2021.

[5] The report dated 24.8.2021 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 family members. The differences have been abridged and there is an attempt to save the relationship. Otherwise also, the issue tilt towards civil dispute. 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

31st August, 2021
pankaj baweja

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