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

CRM-M-38314-2020

Date of Decision: 09.02.2021

Harjinder Singh through his Special Power of Attorney Harinder Singh

Petitioner

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Arvinder Singh, Advocate for the petitioner.

Mr. Ramdeep Partap Singh, Deputy Advocate General,
Punjab.

None for the respondent No.2 /complainant.

AVNEESH JHINGAN, J (Oral):

The matter is taken up for hearing through video conference due to COVID-19 situation.

The petition is for quashing of FIR No. 262, dated 22nd November, 1998 under Sections 325/324/323/34 IPC, registered at Police Station Tanda, District Hoshiarpur alongwith all consequential proceedings including the Proclaimed Offender Order dated 27th September, 2004.

The FIR was at the behest of Rajiv Kumar. The dispute arose due to throwing of garbage on the land of the complainant. The allegations were that there was an altercation and injuries were inflicted by use of iron pipe etc. During the trial, petitioner was declared Proclaimed Offender vide order dated 27th September, 2004.

Learned counsel for the petitioner submits that the petitioner was out of country, the trial qua other co-accused was concluded and they were acquitted. The matter was compromised on 2nd July, 2019.

Following order was passed by this Court on 19th November, 2020:-

“This is a petition for quashing of FIR No. 262 dated 22.11.1998, registered under Sections 325/324/323/34 IPC at Police Station Tanda along with all consequential proceedings arising therefrom.

The quashing is sought on the basis of compromise. However, it is noticed that the petitioner was declared proclaimed offender as far back as 27.9.2004. The other aspect is that other co-accused have been acquitted but it is worth mentioning that acquittal was way back in 2006.

The trial has been delayed due to non-appearance of the petitioner.

Learned counsel for the petitioner submits that the petitioner is ready to pay cost of Rs. 2,00,000/-.

Notice of motion.

Mr. Amit Mehta, Senior DAG, Punjab appearing on advance notice accepts the same on behalf of respondent No. 1.

Notice be issued to respondent No. 2.

Let the parties appear before the Illaqa Magistrate/trial Court on 12.1.2021 for recording their statements with regard to the compromise/settlement.

The trial court is directed to submit a report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in FIR;*
- 2. Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

Out of the cost of Rs.2,00,000/-, Rs. 1,00,000/- be deposited in Punjab Police Welfare Fund and Rs. 1,00,000/- in Poor Patient Welfare Fund, PGIMER, Chandigarh. The receipts be produced before the trial Court.

At this stage, learned counsel for the petitioner submits that the petitioner is in America,

the petition is being filed through Power of Attorney holder and the statement of Power of Attorney be ordered to be recorded.

Let the trial court record not only the statement of Power of Attorney but the petitioner shall ensure his presence through video conferencing for recording his statement also. The cost of video conferencing, if any, would be borne by the petitioner.

List on 9.2.2021.”

The report dated 2nd February, 2021 is received. As per the report, compromise is genuine, voluntary and without any coercion and undue influence.

None has put in appearance on behalf of the complainant in spite of service. The fact remains that parties appeared before the trial Court for getting their statements recorded.

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 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.”

Considering that two accused have already been acquitted and the matter has been compromised, to meet the ends of justice and considering that no useful purpose would be served with continuation of trial, the above mentioned FIR with all proceedings arising therefrom are quashed.

The petition is disposed of.

[AVNEESH JHINGAN]
JUDGE

9th February, 2021

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