

235

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

CRM-M-36779-2021

Date of decision 04.10.2021

Udey Singh @ Udey Tewatia

Petitioner

Versus

State of Haryana and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Vikas Saroha, Advocate for the petitioner.

Mr. Pardeep Prakash Chahar, DAG, Haryana.

Mr. Kuljit Singh, Advocate for the respondent No. 2.

AVNEESH JHINGAN, J (Oral):

[1] Today physical hearing was held but on request of learned counsel for the petitioner, the matter is taken up by way of hybrid hearing.

[2] This petition under Section 482 Cr.P.C. is filed seeking quashing of FIR No. 201, dated 19th August, 2021, under Sections 323 and 506 IPC, registered at Police Station Sector 17, District Faridabad on the basis of compromise dated 31st August, 2021 and consequential proceedings arising therefrom.

[3] The allegations in the FIR by Sunita Devi (complainant-wife) are that on 19th August, 2021, petitioner (husband) gave her beatings and banged her head against the door. With the interference of elders, the parties have compromised the

matter and filed the present petition.

[4] On 7th September, 2021, the parties were directed to appear before the Illaqa Magistrate/trial court for getting their statements recorded.

[5] The report dated 22nd September, 2021 is received stating that the compromise is genuine, voluntary and without any coercion and undue influence. None has been declared 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 was between husband and wife, the differences have been bridged and good sense has prevailed. 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

4th October, 2021

pankaj baweja

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