

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.33537 of 2020
Date of decision 27.05.2021

Shiv Kumar @ Shivam Garg

...Petitioner

Versus

State of Punjab and another

....Respondents

Coram : Hon'ble Mr. Justice B.S. Walia

Present : Mr. Sukhdeep Singh, Advocate for the petitioner.
Mr. Sukhbeer Singh, AAG, Punjab.
Mr. Pulkit Jain, Advocate for respondent No.2.

B.S. Walia, J.

[1] Prayer in the petition under Section 482 Cr.P.C. is for quashing of FIR No.181 dated 07.09.2020, registered under Sections 381 and 457 IPC at Police Station City-I, Sangrur, District Sangrur and all consequential proceedings emanating therefrom on the basis of compromise, Annexure P-3, dated 12.10.2020.

[2] Learned counsel contends that the aforementioned FIR was registered on the basis of statement of respondent No.2, that the petitioner while working in his chemist shop during the period 02.09.2020 to 06.09.2020, stole cash and wholesale bills from the cash-box of the shop but due to intervention of friends, elders and respectable members of society, the matter had been amicably settled and a compromise Annexure P/3 dated 12.10.2020 recorded as per which respondent No.2 did not wish to prosecute the petitioner in the aforementioned case nor he had any objection, if the aforementioned FIR was quashed.

[3] That pursuant to issuance of Notice of motion on 26.10.2020, learned State Counsel on 15.02.2021 made a statement that he did not wish to file reply in view of amicable settlement of the dispute amongst the parties vide compromise, Annexure P/3 dated 12.10.2020. Likewise, Mr. Pulkrit Jain, learned counsel appearing on behalf of respondent No.2 stated that he had no objection if the aforementioned FIR and all consequential proceedings emanating therefrom were quashed in view of the compromise, Annexure P/3 dated 12.10.2020. Accordingly, in the light of aforementioned statements, parties were directed to put in appearance before the learned Illaqa Magistrate/Duty Magistrate concerned on 01.03.2021 for recording of their statements in terms of compromise, Annexure P/3 dated 12.10.2020.

[4] Pursuant thereto, statements of the parties i.e. the petitioner as well as complainant/respondent No.2 were recorded to the effect that the matter had been voluntarily compromised with the petitioner Shiv Kumar @ Shivam through his father Rakesh Kumar without any pressure, coercion or undue influence and out of the free will of the complainant / respondent No.2.

[5] Likewise, Head Constable Gurlal Singh, Investigating Officer of the case made a statement that the petitioner was the sole accused, that he had neither been declared a proclaimed offender nor were any proceedings pending against him nor was there a cross-case in the matter. Pursuant thereto, report was submitted by the learned Chief Judicial Magistrate, Sangrur that compromise between the parties was voluntary, without any pressure, coercion or undue influence etc., that challan had not been presented, nor had any cross-case been registered in the matter.

[6] Learned State Counsel as well as learned counsel for the complainant/respondent No.2 also support the prayer for quashing of the aforementioned FIR and all consequential proceedings emanating therefrom and state that they have no objection if the aforementioned FIR and all consequential proceedings emanating therefrom are quashed on the basis of compromise, Annexure P/3 dated 12.10.2020 in view of the complete settlement of the dispute between the parties amicably with the intervention of respectable persons etc.

7. Learned Counsel have referred to the decision of Hon'ble the Supreme Court in ***Gian Singh v. State of Punjab and another, 2012 (4) RCR (Crl.) 543***, as well as Hon'ble Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab and another, 2007 (3) RCR (Criminal) 1052***. Relevant extract of the aforementioned decision's is reproduced as under :-

Extract of the decision in Gian Singh's case (supra)

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be

exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavor stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the

possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Extract of the decision in Kulwinder Singh’s case (supra)

“39. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its

powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

40. 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.”

8. I have heard learned counsel for the parties and gone through the record. Admittedly in the eventuality of compromise of a dispute, both sides stand to gain as the compromise not only brings peace and harmony between the parties, but also restores tranquility in society. Accordingly, in view of the compromise, Annexure P/3 dated 12.10.2020, statements of the parties before the learned Chief Judicial Magistrate, Sangrur, besides, report submitted by the learned Judicial Officer, the possibility of conviction of the petitioner in the case is remote and bleak, consequently, continuation of the criminal case against the accused / petitioner despite full and complete settlement between the parties would serve no purpose, consequentially, in

case to an end. In the light of the position noted above, I am of the considered view that there is no impediment in the way of this Court in exercising its inherent powers under Section 482 Cr.P.C. to quash the FIR and all consequential proceedings emanating there from as no useful purpose would be served by permitting the criminal case to continue.

9. Accordingly, in the light of position noted above, the instant petition is allowed. FIR No.181 dated 07.09.2020, registered under Sections 381 and 457 IPC at Police Station City-I, Sangrur, District Sangrur and all consequential proceedings emanating therefrom, are quashed qua the petitioner.

10. Petition allowed in the aforementioned terms.

(B.S. Walia)
Judge

May 27, 2021
'Amit'

Whether speaking/ reasoned	:	Yes/No
Whether reportable	:	Yes/No