

201-2

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

**CRM-M-50412-2019
Date of decision 04.10.2021**

Gurdeep Singh @ Mithu and another

Petitioners

Versus

State of Punjab and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Sunil Kumar, Advocate for the petitioners.

Mr. Sandeep Kumar, Deputy Advocate General, Punjab
assisted by ASI Mahender Singh.

Mr. J. S. Bajwa, 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 is filed seeking quashing of F.I.R. No. 140, dated 22nd June, 2019, under Section 3 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and Section 506 of IPC, registered at Police Station Sadar Khanna, Police District Khanna, on the basis of compromise dated 4th October, 2019 and all consequential proceedings arising therefrom.

[3] The brief facts are that F.I.R. was registered on the basis of

application dated 28th May, 2019 received from Jatinder Singh. The allegations were that on 27th May, 2019, the complainant objected to the removal of electric wire from Panchayati motor by Mohan Singh. There was a dispute and petitioners also reached the spot. Both the petitioners made caste based remarks against the complainant. The matter was compromised by the parties with intervention of respectable of the village.

[4] On 7th September, 2021, notice of motion was issued and parties were directed to appear before the Illaqa Magistrate/trial Court for getting their statements recorded.

[5] A report dated 22nd September, 2021 was received from the Judicial Magistrate 1st Class, Khanna stating:-

(i) As per the statement of complainant and from the perusal of FIR on record, there are only two persons arrayed as accused in the present FIR i.e. Sandeep Singh and Gurdeep Singh @ Mithu.

(ii) As per statement of complainant, no accused has been declared PO.

(iii) It is hereby submitted that statements were recorded in which the complainant Jatinder Singh and the accused namely Sandeep Singh and Gurdeep Singh, expressed themselves having reached a compromise. As such, the said compromise ex facie seems to be genuine, voluntary and without any pressure, threat, coercion or undue influence."

[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 noncompoundable 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.”

[7] The Supreme Court in ***Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another***, **2017 AIR (SC) 4843** has expounded principles governing the exercise

of powers under Section 482 of Cr.P.C. The relevant portion is reproduced as under:-

“15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no

exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be

justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance."

[8] The parties are from the same village and have abridged their differences. Rather than indulging in litigation, the parties have bought peace of mind by settling their dispute. No useful purpose would be served by continuing with the trial. There are bleak chances of conviction. 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
2. Whether reportable	:	Yes