

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

119

CRM-M-4739-2021

Date of Decision:28.04.2022

Jaswinder Kaur and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

**Present: Mr. Dinesh Nagar, Advocate,
for the petitioners.**

Ms. A.K. Khurana, D.A.G., Punjab.

**Ms. Vibha, Advocate,
for respondent No.2-complainant.**

VINOD S. BHARDWAJ , J.(Oral)

By means of the instant petition, the jurisdiction of this Court under Section 482 Cr.P.C. has been invoked for seeking quashing of FIR No.0076 dated 16.12.2020 under Sections 406, 420 IPC of the Indian Penal Code, 1860 registered at Police Station Mukandpur, District SBS Nagar (Nawanshahr) and all other consequential proceedings arising therefrom, on the basis of compromise dated 21.01.2021(Annexure P-2) entered between the parties.

Vakalatnama filed on behalf of the complainant-respondent No.2 today in the Court, is taken on record.

2 The parties were directed to appear before the learned trial Court/Illaq Magistrate vide order dated February 02, 2021 of this Court, to get their statements recorded regarding the compromise arrived at between the parties and a report in this regard was called for.

3. Pursuant to the said order, report has been received from the Judicial Magistrate 1st Class, Shaheed Bhagat Singh Nagar vide Memo No.931 dated 16.04.2021. The relevant extract of the report is reproduced as under:-

“Accused Jaswinder Kaur and Manohar Lal @ Manohari also stated that they have compromised the matter with the complainant. They also admitted compromise Mark-A. They further submitted that there is no other case pending between the parties.

Considering these circumstances, it appears that the compromise between the parties has been effected without any coercion or undue influence, and the parties have entered into compromise voluntarily.

Apropos to the second query, it is submitted that as per the report of Investigating Officer/ASI Nirmal Singh there are three other cases registered against accused Jaswinder Kaur whereas no other criminal proceeding is pending against accused Manohar Lal @ Manohari.”

4. Learned State counsel does not dispute the factum of the compromise amongst the parties and does not have any serious objection to the resolution of the dispute amongst the parties.

5. Ms. Vibha, Advocate appears on behalf of respondent No.2 and reiterates the settlement and her concurrence to the FIR and all the other consequential proceedings being quashed.

6. The Full Bench of this Court in the matter of “**Kulwinder**

Singh and others versus State of Punjab and another” reported as (***Punjab and Haryana High Court***) : 2007 (3) RCR (Criminal) 1052 has observed as under:

'(28) To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

(29) In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and Ors., Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:

“The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

(30) The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.

(31) No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

(32) 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.

(33) 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.

(34) 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 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 legal principles as laid down for quashing of the judgment were also approved by the Hon'ble Supreme Court in the matter of '**Gian Singh Versus State of Punjab and another,(2012) 10 SCC 303'**.

Furthermore, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of '**Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another"** (2017) 9 SCC 641'.

8. It is evident that in view of the amicable resolution of the issues amongst the parties, no useful purpose would be served by continuation of the proceedings. The furtherance of the proceedings is likely to be a waste of judicial time and there appears to be no chances of conviction.

9. The Hon'ble Supreme Court has held in the matter of '**Ramgopal And Another Vs State of Madhya Pradesh, 2021 SCC Online SC 834'**, that the matters which can be categorized as personal in nature or in the matter in which the nature of injuries do not exhibit mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest, the Court can quash the FIR in view of the settlement arrived at amongst the parties. The observation of the Hon'ble Supreme Court is extracted as under:-

19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of

Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

10. The following relevant factors emerge from perusal of the case as well as the subsequent developments supplementing a case for invocation of the powers under Section 482 Cr.P.C:-

i) The dispute in question pertains to the complainant having allegedly given money to secure a job for her son and the resultant non-refund of the money so received despite failure on the part of the petitioners to secure a job as promised. The said dispute seemingly is a monetary dispute arising out of money transaction.

ii) That petitioner No.1 is more than 50 years of age, while petitioner No.2 is more than 70 years of age. Continued incarceration of the petitioners in a criminal case will have severe social repercussions and implication for the petitioners and is also likely to embarrass them and their social circle.

iii) That petitioner No.1 is alleged to be involved in three similar FIRs and the same is sufficient reason to direct the continuation of the proceedings against the petitioners even if the matter has been amicably resolved between the parties. However, the petitioners have chosen to resolve the differences and disputes with respect to the complainant. Such an initiative need not be curtailed and is likely to induce the petitioners to

resolve the disputes and differences with the complainants in the other FIRs too.

iv) The offence in question cannot be said to be heinous or as an offence that would be shocking to the conscience of the society or public at large. It can also not be termed as one shocking to the conscience of the Court;

v) Continuation of the proceedings and forcing the parties to undergo rigorous of criminal proceedings is not likely to sub-serve any large public interest;

vi) The complainant is not likely to support the case of the prosecution. Continuation of the proceedings is likely to be a waste of judicial time. The proceedings are likely to end in futility for want of parties to support the case of the prosecution;

vii) No larger public purpose would be served by continuation of the proceedings;

viii) The object of law is well served when the parties resolve their differences and choose to peacefully co-exist and live in harmony.

11. In view of the report of the Judicial Magistrate 1st Class and the principles laid down by the Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303**, as well as **Ramgopal And Another Vs State of Madhya Pradesh 2021 SCC Online SC 834** and also by the Full Bench of this Court in **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, the instant petition is allowed. The aforesaid FIR No.0076 dated 16.12.2020 under Sections 406, 420 IPC of the Indian Penal Code, 1860 registered at Police Station Mukandpur, District SBS Nagar (Nawanshahr) and all other consequential proceedings arising

therefrom, **are hereby quashed** qua the petitioners in view of compromise dated 21.01.2021(Annexure P-2). However, the same would be subject to payment of costs of ₹15,000/- each to be deposited by the petitioners with the **“Post Graduate Institute of Medical Education & Research, Chandigarh”** for the welfare of poor patients within one month from the date of receipt of certified copy of this order.

Petition is allowed.

April 28, 2022
seema

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No