

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

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**CRM-M-4755-2022(O&M)
Date of decision: 02.04.2022**

GURDEV SINGH AND ORS

...Petitioners

Versus

SAWINDER SINGH AND ANR

...Respondents

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

Present : Mr. Arvind Bansal, Advocate
for the petitioners.

Mr. Rakshit Gupta, Advocate for
Mr. Rishi Nijhawan, Advocate
for respondent No.1/complainant.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

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 Criminal Complaint case No.RBT-65 of 2015 dated 13.08.2009/03.07.2015 under Sections 420, 423, 465, 467, 468 and 471 of the IPC (Annexure P-1) and judgment of conviction dated 27.01.2016 and order of sentence dated 30.01.2016 (Annexure P-2) passed by Judicial Magistrate First Class, Guhla, District Kaithal and all other consequential proceedings arising therefrom, on the basis of compromise dated 26.01.2022 (Annexure P-3) entered between the parties.

2 Vide order dated 07.02.2022 of this Court, the parties were directed to appear before the learned trial Court/Illaq Magistrate 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 First Class, Guhla, District Kaithal vide Memo No.65 dated 03.03.2022. The relevant extracted of the report is reproduced as under:-

The parties were directed to appear before the concerned trial Court/Illaq Magistrate for recording of their statements with regard to the compromise/settlement on 02.03.2022 by moving appropriate application or by presenting this order. As the Illaq Magistrate was not available on 02.03.2022, necessary compliance was done by the court of undersigned, being a Duty Magistrate.

That one complaint was filed by Sawinder Singh in relation to an occurrence of offences us 420, 423, 467, 468, 471 and 465 of IPC. The parties were directed to appear before this Court on 02.03.2022 and get their statements recorded. Identity of the parties was duly ensured by this court. Parties have been duly identified by their respective learned counsels. Joint statement of the parties was recorded. Separate statement of the complainant was also recorded. The parties have stated that they have mutually compromised the matter that too without any pressure and coercion. As per joint statement of parties, the complainant does not want to pursue with the present matter. In view of the statement of the parties, this court is satisfied that parties have voluntarily entered into the compromise which is in the interest of parties and would bring the harmony and peace between the parties. The said compromise/ settlement is genuine and is not result of any pressure or coercion in any manner.

After recording the statements, this court is of the opinion that since they have reached an amicable compromise between themselves, they should be given an opportunity to live peacefully.

Statement could not be got recorded from the investigating

officer as present case is a complaint case. This court perused the case file minutely and it was revealed that although one of the accused persons was residing beyond jurisdiction of the court but the report under section 202 Cr.P.C. 1973 was not called for. Therefore, there was no investigating officer (Police Official) in the present matter. However, statements of both the parties were taken who had stated that one complaint was filed by Sawinder Singh in relation to an occurrence of offences u/s 420, 423, 467, 468, 471 and 465 of IPC. The present complaint was registered against total four persons only.

- 1. Laxman Dass alias Lakshman Das r/o 70/1 Ashok Nagar Tilak Nagar, SO West Delhi*
- 2. Gurdev Singh r/o ward no. 17, Cheeka, Tehsil Guhla Distt. Kaithal*
- 3. Wazir Khan r/o House no. 212, Salempur ward no. 9, Guhla, Tehsil Guhla, Distt, Kaithal*
- 4. Ramesh Kumar r/o House no. 245, near Gurudwara, Ward no. 01. Cheeka, Tehsil Guhla, Distt. Kaithal.*

All these four accused persons have not been declared as proclaimed offender. Moreover, no other case/proceedings are pending against the accused persons except the present case.

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. Mr. Rakshit Gupta, Advocate appears on behalf of respondent No.1 and reiterates the settlement and his concurrence to the FIR and all the other consequential proceeding 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 been 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 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 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 SCC303**'. Still further, 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’, the same are extracted as under:

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

16.1 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;

16.2 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.

16.3 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;

16.4 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;

16.5 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;

16.6 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;

16.7 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;

16.8 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;

16.9 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

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 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. 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 extra-ordinary 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 points emerge from the perusal of the case as well as the subsequent proceedings arising therefrom:-

- i. The dispute in question pertains to property situated in Village Baupur, Tehsil Guhla District Kaithal. Civil proceedings before the Court were pending *inter se* amongst the parties. The said civil dispute already stands amicably resolved amongst the parties. Criminal proceedings is an outcome of the civil dispute between the parties;
- ii. Complaint in question was instituted in the year 2009 and a period of more than 12 years have already elapsed since then. The parties have

chosen to amicably resolve the dispute with intervention of the respectables from both the sides to give quietus to the dispute;

- iii. Petitioner Nos.2 and 3 are more than 70 years of age, good sense has prevailed upon them and they have chosen to bury their differences and resolve the dispute so as to live peacefully;
- iv. The offence in question cannot be termed as being shocking to the conscience of the Court or that of the public at large;
- v. Continuation of the proceedings is not likely to advance any larger public interest. Besides, the termination of the proceedings is also not likely to result in any public outcry;
- vi. Petitioners do not suffer from any criminal antecedents and have also not been involved in any other case;
- vii. No larger public interest would be served by continuation of the incarceration of the petitioners and forcing them to undergo the agony of facing criminal proceedings;
- viii. It would be expedient and for the peaceful co-existence of the parties if the criminal proceedings arising from the complaint and presently pending before the lower Appellate Court are quashed to secure the ends of justice and to promote peace and harmony.

11. In view of the report of the Judicial Magistrate First Class, Guhla, District Kaithal 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 Criminal Complaint case No. RBT-65 of 2015 dated

13.08.2009/03.07.2015 under Sections 420, 423, 465, 467, 468 and 471 of the IPC (Annexure P-1) and judgment of conviction dated 27.01.2016 and order of sentence dated 30.01.2016 (Annexure P-2) passed by Judicial Magistrate First Class, Guhla, District Kaithal and all other consequential proceedings arising therefrom, **are hereby quashed** qua the petitioners in view of compromise dated 26.01.2022 (Annexure P-3). However, the same would be subject to payment of costs of Rs.15,000/- to be deposited by the petitioners with the '**Punjab and Haryana High Court, Bar Clerks Association Chandigarh**' within one month from receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

April 02, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>