

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M- 5935 of 2021

Date of Decision: 29.07.2022

Rahul Gupta and others

---Petitioners

versus

State of Haryana and another

---Respondents

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

Present: Ms. Ishita Jain, Advocate
for Mr. Namit Khurana, Advocate
for the petitioners

Mr. Kanwar Sanjiv Kumar, AAG, Haryana

Mr. Sandeep Sharma, Advocate
for respondent No. 2

VINOD S. BHARDWAJ, J. (ORAL)

By means of the instant petition, the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure has been invoked seeking quashing of FIR No. 21 dated 23.01.2021 under Sections 420, 406, 370 and 506 of the Indian Penal Code and Section 24 of the Immigration Act, 1983, registered at Police Station Nissing, District Karnal and all other consequential proceedings arising therefrom, on the basis of compromise and affidavit dated 04.02.2021 (Annexures P-2 and P-3).

2 Vide order dated 10.02.2021 passed by this Court, the parties were directed to appear before the 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, Karnal vide Endst. No. 3354 dated 18.03.2021. A relevant extract of the same reads thus:-

“1. Statement of accused Rahul Gupta, Anuja Gupta and Sanjeev Kumar and complainant Harvinder Singh (Annexure -1) has been recorded on solemn affirmation in which they stated that they have compromised the matter with each other voluntarily and without any fear or pressure.

2. After careful perusal of the statement given on solemn affirmation by the complainant as well as accused concerning the present case and after careful analysis of the same, this court is convinced that the compromise between the parties in question is genuine and no such material is available on record which can reflect that the compromise has been effected under fear, threat, pressure or coercion. Therefore, this court is of the thoughtful opinion that the available material on record is in favour to reflect a valid compromise between the parties.

3. Further, accused namely Rahul Gupta, Anuja Gupta and Sanjeev Kumar and complainant namely Harvinder Singh are party to the compromise and no other person except them are party to the compromise.

4. No one is proclaimed offender/absconding in 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. Sandeep Sharma, Advocate appears on behalf of respondent No. 2 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 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.

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 verus 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 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 power under Section 482 Cr.P.C.:-

- (i) The dispute is a monetary dispute resulting from a money transaction between the parties on the pretext of sending the complainant abroad.
- (ii) Petitioners No. 1 and 2 are in their thirties and petitioner No. 3 is 47 years of age and continuation of criminal proceedings will cause severe repercussions to the petitioners in discharge of their social obligations as well as in their work place.
- (iii) The case is still at the initial stage as FIR was registered in the year 2021 and the challan has not been filed yet.
- (iv) The petitioners have no criminal antecedents.
- (v) 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;
- (vi) Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to subserve any large public interest;
- (vii) The proceedings are likely to end in futility for want of parties to support the case of the prosecution;
- (viii) No larger public purpose would be served by continuation of the proceedings;
- (ix) Parties do not suffer any criminal antecedents and have not indulged in any such or similar case during the pendency of the case or after registration of the FIR.
- (x) 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 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 learned Judicial Magistrate Ist Class, Karnal 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. 21 dated 23.01.2021 under Sections 420, 406, 370 and 506 of the Indian Penal Code and Section 24 of the Immigration Act, 1983, registered at Police Station Nissing, District Karnal and all other consequential proceedings arising therefrom, **are hereby quashed qua petitioners only** in view of compromise and affidavit dated 04.02.2021 (Annexure P-2 and P-3). However, the same would be subject to payment of costs of Rs.10,000/- per petitioner to be deposited with the **High Court Bar Association Environment Protection Fund, Chandigarh** within a period of 30 days from today.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

29.07.2022

PARAMJIT

Whether speaking/reasoned : Yes

Whether reportable : Yes/No