IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-M-5432-2022
Decided on : 27.09.2022

Harpal Singh

. . . Petitioner(s)

Versus

State of Punjab and others

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. J. S. Grewal, Advocate
for the petitioner(s).

Mr. AS Sandhu, AAG, Punjab.

Mr. Aman Kumar, Advocate for
Mr. Piyush Sharma, Advocate
for respondents No. 2 and 3.

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SANJAY VASHISTH, J. (Oral)

1. The present petition under Section 482, Cr.P.C., has been filed by the petitioner, for quashing of complaint No. COMI 133 of 2016 dated 09.05.2016, titled as 'Tarsem Singh versus Bagicha Singh @ others' filed under Sections 326, 324, 323, 148 and 149 IPC, instituted in the Court of learned Judicial Magistrate Ist Class, Abohar, and all the consequential proceedings arising therefrom, on the basis of compromise-deed dated 30.12.2021 (Annexure P-3).

2. Vide order dated 25.02.2022, the affected parties were directed to appear before the learned trial Court/Illaqa Magistrate, for getting their respective statements recorded with regard to the compromise. The trial Court/Illaqa Magistrate was to submit a report in this regard giving certain details as enumerated in the said order.

3. Pursuant to the order dated 25.02.2022, passed by this Court,

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the parties have appeared before learned Judicial Magistrate Ist Class, Abohar, and as per report dated 16.04.2022, submitted to this Court, both the parties have got recorded their respective statements in Court. The operative part of the report received from learned Court below is as under:-

> *" In view of the statement of the parties, it is apparent on record that parties have compromised the matter voluntarily. It is also apparent on record that;*
>
> *(1) In ccomplaint No. COMI 133 of 2016 dated 09.05.2016, titled as 'Tarsem Singh versus Bagicha Singh @ others' filed under Sections 326, 324, 323, 148 and 149 IPC, Instituted in the Court of learned Judicial Magistrate Ist Class, Abohar, there is one accused namely Harpal Singh.*
>
> *(2) The compromise seems genuine, without any kind of coercion or undue influence and voluntary.*
>
> *(3) In the present FIR there are two complainants namely Tarsem Singh and Partap Singh.*
>
> *(4) Vide judgment dated 08.10.2021, accused Harpal Sngh was convicted under Section 325 IPC for a term of R. I. For three years and to pay Rs. 10,000/- as fine."*

4. Learned counsel for the petitioner urged that due to intervention of the respectable and elderly people of the society, the matter has been resolved and private parties have effected a compromise-deed dated 30.12.2021 (Annexure P-3). At present, there remains no dispute amongst the private parties. He further submits that in view of the compromise so effected between the private parties, pendency of the impugned FIR and consequential proceedings emanating therefrom would be sheer abuse of the process of law.

5. Learned State counsel as also learned counsel for respondent No.2, after going through the statements and the report received from learned

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Court below, very fairly admit that the private parties have resolved their dispute and effected a compromise and that they have no objection if the impugned FIR and all the consequential proceedings are quashed on the basis of the compromise.

6. The Full Bench of this Court in the matter of **Kulwinder Singh and others v. State of Punjab and another, 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 others**, 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*

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> *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 v. 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 v. State of Gujarat and another, (2017) 9 SCC 641**.

8. The Hon'ble Supreme Court has held in the matter of **Ramgopal**

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and another v. **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."*

9. After hearing learned counsel for the parties and going through the material available on record, this Court finds that there appears to be substance in the submission of learned counsel for the petitioner that pendency of the present criminal litigation would be abuse of process of law since the chances of conviction of the petitioner is bleak in view of the compromise so effected between the private parties.

10. The report alongwith statements of the affected parties received from learned Court below would reveal that the aggrieved person has genuinely effected a compromise with the petitioner and he has no objection if the impugned FIR and consequential proceedings are quashed.

11. Keeping in view totality of the facts and circumstances of the

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case and taking into consideration the ratio of the judgments in the cases of **Gian Singh (supra)**, **Ramgopal (supra)** and **Kulwinder Singh (supra)**, this petition is accepted and complaint No. COMI 133 of 2016 dated 09.05.2016, titled as 'Tarsem Singh versus Bagicha Singh @ others' filed under Sections 326, 324, 323, 148 and 149 IPC, instituted in the Court of learned Judicial Magistrate Ist Class, Abohar, and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioner, in view of compromise dated 30.12.2021 (Annexure P-3).

12. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

September 27, 2022
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Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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