

**IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH**

271

CRM-M-6000-2022 (O&M)

Date of Decision: 25.05.2022

NARENDER @ AMIT KUMAR @ NINDER & ORS

... Petitioners

Versus

STATE OF HARYANA AND OTHERS

... Respondents

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

Present: Mr. G.S. Shahpuri, Advocate
for the petitioners.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

Mr. Sandeep Kumar, Advocate for
Mr. Satish Saini, Advocate
for respondents No.2 & 3.

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, 1973 has been invoked for seeking quashing of FIR No.443 dated 21.08.2013 under Sections 323, 324, 341, 506, 326, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City Yamuna Nagar (Annexure P-1) and setting aside the judgment dated 21.01.2019 and order of sentence dated 25.01.2019 (Annexure P-2) passed by the Chief Judicial Magistrate, Yamuna Nagar at Jagadhri, on the basis of compromise dated 28.01.2022 (Annexure P-4) entered into between the parties. It has been further pointed out that the appeal against the above said judgment of conviction and order of sentence has already been filed before the Sessions Court, Yamuna Nagar at Jagadhri, which is still pending.

2 The parties were directed to appear before the learned trial

Court/Illaqa Magistrate vide order dated 14.02.2022 passed by 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 Chief Judicial Magistrate, Yamuna Nagar at Jagadhri vide Memo No.100 dated 10.03.2022. The relevant extract of the report is reproduced as under:-

“As per statement of Jitender Kumar (complainant) and Hitesh Kumar (injured), the matter between the complainant and accused persons has been compromised voluntarily without any pressure, threat of coercion. It has been stated by the complainant and injured that they have no objection if the FIR is quashed against the accused. In the similar manner, accused have given statement that matter between them has been compromised voluntarily without any pressure, threat or coercion. From the statements of complainant and accused persons, it appear that matter between complainant, injured and accused has been compromised voluntarily without pressure of any kind from any corner and compromise effected between them is genuine one.

Had there been any pressure of any kind on any of the persons, who had given statements before this Court, then he could bring notice of this court about that fact, but none of the persons, who had given statements had stated that he was under pressure of any kind.

In these circumstances, it is concluded that the statements of the complainant, injured and accused persons are bona fide and are not result of any threat, duress or coercion in any manner and hence compromise effected between complainant and accused is voluntarily without any threat or coercion and is valid

one.”

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

5. Mr. Sandeep Kumar, Advocate appearing on behalf of respondents No.2 and 3, reiterates the settlement and his concurrence to the FIR and judgment dated 21.01.2019 and order of conviction dated 25.01.2019 passed by the Chief Judicial Magistrate, Yamuna Nagar at Jagadhri being quashed or set aside.

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. A perusal of the aforesaid judgment would establish that the extra ordinary power enjoined upon a High Court under Section 482 CrPC can be invoked beyond the contours of Section 320 Cr.P.C. It further establishes that criminal proceedings involving non-heinous offences can be annulled irrespective of the fact that the trial has already been concluded and the compromise is struck post conviction and during pendency of consequential proceedings. The jurisdiction under Section 482 Cr.P.C. has

to be exercised with rectitude considering the circumstances of the case with an object to secure ends of justice. In the matter of **Bhagel Singh Vs. State Punjab 2014 (3) RCR (Criminal) 578**, where an accused had been convicted for offence under Section 326 IPC and was sentenced to undergo rigorous imprisonment for 2 years, the parties entered into compromise during pendency of the appeal, this Court, while placing reliance upon the precedent judgments of **Lal Chand Vs. State of Haryana. 2009 (5) RCR (Criminal) 838** and **Chhota Singh Vs. State of Punjab 1997(2) RCR (Criminal) 392** allowed the compounding of offence in respect of Section 326 IPC at the appellate stage with the observation that the same would be a starting point in maintaining peace amongst the parties. Further in a judgment dated 09th March 2017, passed in **CRR No.390 of 2017** titled as **Kuldeep Singh Vs. Vijay Kumar and another**, this Court has held as under:-

*'Reliance can be placed on **Kaushalya Devi Massand Vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298 and Damodar S. Prabhu Vs. Sayed Babalal, AIR 2010 (SC) 1097**, The revisional jurisdiction of the High Court in terms of Section 401 CrPC.,1973 would result in bringing about ends of justice between the parties in the event of finding that the compromise is genuine, bonafide and free from any undue influence.*

The compromise in question would serve as an everlasting tool in favour of the parties for which indulgence can be given by this Court. The revisional exercise would also be in consonance with the spirit of section 147 of Negotiable Instruments Act.

*The principles laid down in **Damodar S. Prabhu Vs. Sayed Babalal, AIR 2010 (SC) 1097** would be squarely*

fortified if the compromise in question is allowed to be effected between the parties with leave of the Court.

In view of the aforesaid, impugned judgment dated 19.01.2017 passed by Additional Sessions Judge, Sri Muktsar Sahib vide which conviction and sentence of the petitioner was upheld stands quashed.

The revision petition is allowed subject to deposit of 15% of the cheque amount as per ratio laid down in Damodar S. Prabhu's case (supra) to State Legal Services Authority, failing which this order will be of no consequence. Necessary consequences to follow.'

11. The aforesaid principle has further been followed by a co-ordinate Bench of this Court in the matter of **Ankush Tiwari And Others Vs. State of Punjab and Another reported as 2022(1) RCR (Criminal) 379.**

12. 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) That dispute in the present case arose due to a scuffle between the parties, who are friends, resulting in injuries being caused to the injured party. However, the injuries are on the non-vital parts of the body of injured.
- (ii) The compromise has been effected between the petitioners and complainant-respondent No.2 as well as injured-respondent No.3 during the pendency of appeal, which is pending before the Sessions Court, Yamuna Nagar at Jagadhri.
- (iii) That the petitioners No.2 to 4 are in their late twenties and continued criminal incarceration is likely to result in negative impact on their future prospects.
- (iv) That the petitioners no.1 is 36 years old and petitioner no.5 is 46 years old and continuation of criminal

proceedings will cause severe repercussions to the petitioners in discharge of their social obligations as well as at their work place.

- (v) That the FIR pertains to the year 2013, the petitioners were convicted and sentenced by the trial Court, however, the dispute has been amicably settled during the pendency of the appeal before Sessions Court.
- (vi) That the parties are residents of same vicinity and continuation of the proceedings is likely to spoil the peaceful atmosphere in the vicinity.
- (vii) That continuation of proceedings in the lower Appellate Court between the parties is not likely to sub-serve any larger public interest.
- (viii) 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 nor can it be said to have fallen under any of the prohibited categories.
- (ix) The proceedings in lower Appellate Court are likely to end in futility;
- (x) The petitioners do not suffer from any criminal antecedents and have not indulged in any such or similar case during the pendency of the proceedings or after registration of the FIR.
- (xi) In the light of the fact that a compromise has arrived arrived at between the parties at this stage, the continuation of the proceedings before lower Appellate Court is likely to be a wastage 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.

13. In view of the report of the Chief Judicial Magistrate, Yamuna Nagar at Jagadhri, 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. FIR No.443 dated 21.08.2013 under Sections 323, 324, 341, 506, 326, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station City Yamuna Nagar (Annexure P-1) **is hereby quashed** qua the petitioners in view of compromise 28.01.2022 (Annexure P-4) and consequently, the judgment of conviction dated 21.01.2019 and order of quantum dated 25.01.2019 (Annexure P-2) passed by the Chief Judicial Magistrate, Yamuna Nagar at Jagadhri are accordingly set aside. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by each petitioner in the '**Haryana State Legal Services Authority, Panchkula**' within one month from the receipt of certified copy of this order.

Petition is allowed, accordingly.

(VINOD S. BHARDWAJ)
JUDGE

25.05.2022
rajender

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No