

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

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Date of decision: 05.08.2022

CRM-M- 8830-2022

KEWAL CHAND AND OTHERS

.....Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

....Respondents

(2)

CRM-M- 8828-2022

KULWANT SINGH AND OTHERS

...Petitioners

VERSUS

STATE OF PUNJAB AND OTHERS

....Respondents

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

Present: Mr. G.S. Rawat, Advocate
for the petitioners in CRM-M- 8830-2022
for the respondents No.2 to 8 in CRM-M- 8828-2022.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Sandeep Arora, Advocate
for the petitioners in CRM-M- 8828-2022 and
for the respondents No. 2 to 6 in CRM-M- 8830-2022 .

VINOD S. BHARDWAJ. J.(Oral)

1. This common order shall dispose of the above-mentioned two criminal miscellaneous petitions as both the petitions are between the same parties.

2. By means of the instant petition, the jurisdiction of this

Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) has been invoked for seeking quashing of DDR No. 29 dated 22.09.2021 under Sections 323, 324, 427 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Cantt. Jalandhar, in case bearing FIR No. 105 dated 06.09.2021 under Sections 323, 341, 506, 417 and 427 of the IPC registered at Police Station Cantt. Jalandhar as well as FIR No. 105 dated 06.09.2021 under Sections 323, 341, 506, 417 and 427 of the IPC registered at Police Station Cantt. Jalandhar and all other consequential proceedings arising therefrom, on the basis of compromise dated 09.02.2022 (Annexure P-3) entered between the parties.

3. The parties were directed to appear before the learned trial Court/Illaq Magistrate vide order dated 03.03.2022 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.

4. Pursuant to the said order, report has been received in CRM-M- 8830-2022 from the Judicial Magistrate First Class, Jalandhar vide Memo No. 225 dated 22.04.2022. The relevant extract of the report is reproduced as under:-

1) As per the statement of the complainant/respondent, accused/petitioners and Investigating Officer, Kewal Chand, Lovejot Singh alias Jyoti, Ramanjeet: Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar only have been arrayed as accused in DDR No. 29 dated 22.09.2021 in case FIR No.105 dated 06.09.2021 under Sections 323/324/427/506 of IPC, which was registered at Police

Station Jalandhar Cantt.

2) As per statement of accused/petitioners and Investigating Officer, the accused/petitioners namely, Kewal Chand, Lovejot Singh alias Jyoti, Ramanjeet Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar have not been declared as proclaimed offenders.

3) As per the statements of complainant/respondents and petitioners/ accused, namely, Kewal Chand, Lovejot Singh alias Jyoti, Ramanjeet Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar, the compromise entered into is genuine, voluntary and without any coercion or undue influence. The identity of the respondent/ complainant and petitioners/ accused was also ensured and the copies of their Aadhar Cards are attached with their statements, respectively.

4) As per the statement of Investigating Officer, no other criminal case/proceeding is pending against the accused/petitioner namely, Kewal Chand, Lovejot Singh alias Jyoti, Ramanjeet Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar. As per the statement of the Investigating Officer the present case was registered against the accused at the instance of complainant Amit Bhatti. Petitioners/ accused Kewal Chand, Lovejot Singh alias Jyoti, Ramanjeet Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar are not involved in any other case.

5) As per statement of accused/ petitioners, respondents and the Investigating Officer, all the parties named in the FIR have made their statements regarding the compromise.”

5. Report has also been received in CRM-M- 8828-2022 from the Judicial Magistrate First Class, Jalandhar vide Memo No. 226 dated 22.04.2022. The relevant extract of the report is reproduced as under:-

- “1) As per the statement of the complainant/respondent, accused/ petitioners and Investigating Officer, Kulwant Singh, Anil Bhatti, Amit Bhatti, Sarabjit Kaur, Hardeep Kaur only have been arrayed as accused in FIR No.105 dated 06.09.2021 under Sections 323/341/506/417/427 of IPC, which was registered at Police Station Jalandhar Cantt.*
- 2) As per statement of accused/petitioners and Investigating Officer, the accused/petitioners namely, Kulwant Singh, Anil Bhatti, Amit Bhatti, Sarabjit Kaur, Hardeep Kaur have not been declared as proclaimed offenders.*
- 3) As per the statements of complainant/respondents and petitioners/ accused, namely, Kulwant Singh, Anil Bhatti, Amit Bhatti, Sarabjit Kaur, Hardeep Kaur, the compromise entered into is genuine, voluntary and without any coercion or undue influence. The identity of the respondent/ complainant and petitioners/ accused was also ensured and the copies of their Aadhar Cards are attached with their statements, respectively.*
- 4) As per the statement of Investigating Officer, no other criminal case/proceeding is pending against the accused/petitioner, namely, Kulwant Singh, Anil Bhatti, Amit Bhatti, Sarabjit Kaur, Hardeep Kaur. As per the statement of the Investigating Officer the present case was registered against the accused at the instance of complainant Kewal Chand. Petitioners/ accused Kulwant Singh, Anil Bhatti, Amit Bhatti, Sarabjit Kaur and Hardeep Kaur are not involved in any other case. One DDR No. 029 dated 22.09.2021 under Sections 323/324/427/506 IPC was got registered by Amit Bhatti against Kewal chand, Lovejot Singh, Ramanjeet Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar which is the cross case of FIR No. 0105 dated 06.09.2021 under Sections 323/341/506/417/427 IPC. Parties have entered into compromise qua that DDR No.*

029 also.

5) *Statements of parties namely Kulwant Singh, Anil Bhatti, Amit Bhatti, Sarabjit Kaur, Hardeep Bhatti, Kewal chand, Lovejot Singh alias Jyoti, Ramanjeet Kaur, Rupina, Parveen Kumari, Jagdish Raj and Raj Kumar in FIR No. 0105 dated 06.09.2021 have been recorded regarding the compromise effected between the parties.*

6) *As per statements of petitioners/accused persons, respondent/ complainant and Investigating Officer, the challan in the present FIR No. 0105 dated 06.09.2021 under Section 323, 341, 506, 417, 427 IPC and DDR No.029 dated 22.09.2021 which is cross case of above said FIR have yet not been presented before the court.”*

6. 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.

7. Learned counsels for the parties reiterate the settlement and their concurrence to the FIR as well as General Diary and all the other consequential proceedings being quashed.

8. 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.

9. 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'.

10. 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.

11. 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.

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) This is a case of version and cross-version wherein FIR and DDR was registered qua the same incident.
- ii) The dispute is arising from a scuffle between the parties resulting in injuries being caused. The injuries were simple in nature.
- iii) The parties are members of the same family and continuation of proceedings is likely to cause strained relations among the family members.
- iv) The case is at the initial stage as the FIR was registered in the year 2021 and investigation is till pending.
- v) In CRM-M-8830-2022, Petitioner No.1 and Petitioner No.7 are in their sixties and protraction of the criminal trial will cause mental agony to the petitioners in their old age
- vi) In CRM-M-8830-2022, Petitioner No.2 is 28 years old; petitioner No.3 & Petitioner No.6 are in their fifties; petitioner No. 4 and 5 are in their thirties 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.

- vii) In CRM-M-8828-2022, Petitioner No.5 is 68 years old and protraction of the criminal trial will cause mental agony to the petitioner in his old age.
- viii) In CRM-M-8828-2022, Petitioner No.1 is 54 years old and Petitioner No.2, Petitioner No.3 and petitioner No.4 are in their forties 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.
- ix) 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;
- x) Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to subserve any large public interest;
- xi) The proceedings are likely to end in futility for want of parties to support the case of the prosecution;
- xii) No larger public purpose would be served by continuation of the proceedings;
- xiii) 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.

xiv) 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.

13. In view of the report of the Judicial Magistrate First Class, Jalandhar 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 petitions are allowed. The aforesaid DDR No. 29 dated 22.09.2021 under Sections 323, 324, 427 and 506 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Cantt. Jalandhar, in case bearing FIR No. 105 dated 06.09.2021 under Sections 323, 341, 506, 417 and 427 of the IPC registered at Police Station Cantt. Jalandhar as well as FIR No. 105 dated 06.09.2021 under Sections 323, 341, 506, 417 and 427 of the IPC registered at Police Station Cantt. Jalandhar and all other consequential proceedings arising there from **are hereby quashed** qua the petitioners in view of compromise dated 09.02.2022 (Annexure P-3). However, the same would be subject to payment of costs of **Rs.5,000/-** to be deposited by the each petitioner in **CRM-M-8830-2022** with the “**High Court Bar Association Environment Protection Fund**” and **Rs.5,000/-** to be deposited by the each petitioner in **CRM-M-8828-2022** with the “**Punjab and Haryana**

High Court Lawyers Welfare Fund”, Chandigarh within one month
from receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

AUGUST 05, 2022
Vishal Sharma

Whether speaking/reasoned:	Yes/No
Whether Reportable :	Yes/No