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

**CRM-M-10311-2021 (O&M)
Date of Decision: 20.12.2022**

BALBIR SINGH AND ANOTHER

....Petitioners

Versus

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. Namit Khurana, Advocate
for the petitioners.

Mr. Ram Kumar Singla, DAG, Haryana.

Mr. Saksham, Advocate
for respondent Nos.2 to 4.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.3 dated 05.01.2018, under Sections 323, 325, 506 and 34 of Indian Penal Code and Section 3 of SC/ST Act, 1989 registered at Police Station Radaur, District Yamuna Nagar (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise (Annexure P-2) arrived at between the parties.

The relevant extract of FIR reads as under:-

“Statement of Ram Ji Lal s/o Garib Ram caste Harijan village Jaghuri PS Radaur district Yamunanagar age 62 years. I state that I am resident of the aformentioned address and work as a labourer. I have four sons, three of them are married and one is unmarried. Four years back I have purchased a land plot measuring 10 Marla from Balbir Singh s/o Mehar singh caste Jat for an amount of Rs. 3,18,000/- At that time I paid token money of Rs. 2,00,000/- and I took the possession of the plot.

There was four months period for registry and the balance amount was to be paid at the time registry. Even after the lapse of four months period, Balbir Singh did not get the plot registered in my name. Then I filed a complaint case in the court. On date 26.12.2017 at around 4:00 PM I had gone for watering my plot. There Malkit Kaur w/o my son Sanjeev Kumar had come who brought tea for me, at the same time Balbir Singh s/o Mehar Singh caste Jat and Gurwinder Singh s/o Gulzar Singh, caste Jat, son of Raj and another person came to me and asked me that why I was watering their fields and they started abusing me and manhandling me then Malkit Kaur tried to save me from them. All of them beat Malkit Kaur and abused her. They did unacceptable malicious actions with her, I shouted for help. My family members also reached there, then the accused fled from there, while they fled from there they threatened me that today you have been saved but in future if we get a chance then we will murder you. They also used abusive language for my caste and said "(deplete)... CHAMAR... .." you are such people who have taken possession of our land. My son Krishan Kumar who reached at site took us to CH Radaur in a private vehicle."

Vide order dated 04.03.2021, the Illaqa Magistrate/trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Additional Sessions Judge, Yamuna Nagar, Jagadhri has submitted its report, vide letter dated 16.04.2021 which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. Relevant extract of the said report is reproduced as under:-

“2. In compliance of the said order dated: 04.03.2021, accused Balbir Singh and Gurvinder Singh appeared in the Court, today i.e., 05.04.2021 and accused Balbir Singh and Gurvinder Singh got recorded their separate statements. Complainant party/private respondents, namely Ramji Lal, Malkeet Kaur and Krishan Lal also appeared in person in the court and got recorded their separate statements. Complainant Ramji Lal, vide his statement (copy enclosed) stated that he made a complaint dated 28.12.2017, on the basis of which case FIR No.03 dated 05.01.2018, under Sections 323, 323, 506, 34 IPC & Sections 3 of SC&ST Act, P.S. Radaur, District Yamuna Nagar was registered against accused Balbir Singh son of Mehar Singh and accused Gurvinder Singh son of Gulzar Singh, both resident of village Jhaguri, Tehsil Radaur, P.S. Radaur, District Yamuna Nagar. That the accused are his neighbourer in the village and the above matter is compromised between accused and his family in the presence of respectable persons of his village and in this regard, a compromise dated 23.02.2021 Ex C1 (copy enclosed) was reduced into writing which was signed by the both the parties as well as respectable persons of his village. The compromise Ex.C1 is genuine, voluntarily and without any coercion or undue influence and bears his signatures and he has no objection if the FIR mentioned above be disposed of as per the conditions of the compromise Ex.C1. Further, other private/respondents, namely, Malkeet Kaur and Krishan Lal also appeared in person and got recorded their separate statements (copies enclosed) to the effect that they have heard and understood the statement of Ramji Lal made in the court today and that accused Balbir Singh son of Mehar Singh and accused Gurvinder Singh son of Gulzar Singh, both resident of village Jhaguri, Tehsil Radaur, P.S. Radaur, District Yamuna Nagar are their neighbourer in the village and it is correct that their family members and the family members of accused persons entered into a compromise dated 23.02.2021 in the presence of respectable persons of the village. The said compromise is genuine, voluntarily and without any coercion and undue influence and they have no objection if the case registered against accused persons be disposed of according to the

conditions of the compromise deed Ex.C1.

3. On the other hand, accused Balbir Singh and Gurbinder Singh also got recorded their separate statements (copies enclosed) to the effect that the matter has been compromised in the presence of respectable persons of Village. They also stated that the compromise is genuine, voluntary and without any coercion or undue influence. They also stated that FIR be disposed of as per the conditions of the compromise. They have also stated that apart from this FIR, no other case is registered against them anywhere in India nor they have been declared proclaimed offender/proclaimed person by any competent court.

4. The complainant party consisting of complainant Ramji Lal, Krishan Lal and Malkeet Kaur have been identified by Shri Ankush Kumar, Advocate.

5. The undersigned also asked both the parties, especially the complainant party, in open Court whether they have entered a compromise voluntarily, without any pressure or threat from any corner. to which they answered in affirmative.

Statements were made by them in the Court voluntarily.”

A perusal of the said report would show that statements of all the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise was entered into voluntarily and without any pressure.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the parties.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR in question.

I have heard the learned counsel for the parties and have perused the file.

639, *at P 642*, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out

of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

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.

Recently, Hon'ble Apex Court ***Ramgopal v. State of Madhya Pradesh 2021(4) RCR (Criminal) 322*** has held that non-compoundable criminal cases of pre-dominantly private nature can be quashed under Section 482 Cr.P.C. even if compromise is reached after conviction. The relevant extract of the observation made by Hon'ble Apex Court reads as under:

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the

*conduct of the accused, before and after the incidence. The touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C., 1973 would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C., 1973 may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. v. State of Punjab & Ors., (2014) 6 SCC 466** and **Laxmi Narayan (Supra)**...*

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19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 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., 1973 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., 1973 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..”

Still further, the Hon'ble Apex Court in **Ramawatar v. State of Madhya Pradesh 2021(4) RCR (Criminal) 555**, considered the following question:

“whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?”

While answering the abovesaid question, the Hon'ble Apex Court quashed the criminal proceedings and also set aside the judgments of conviction and sentence passed by the Trial Court as well as the High Court of Madhya Pradesh, by observing as under:-

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or

the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C...”

Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the instant case, this court is inclined to invoke powers under Section 482 Cr.P.C. to quash the criminal proceedings for the following reasons:

- i. In the present case, a perusal of the FIR in question would manifest that there was a pre-existing civil dispute between the parties. Thus, the genesis of the alleged occurrence was the aforestated civil/property dispute. Considering this aspect, even though the provisions of a special statute have been invoked in the present case; however this court is of the prima facie opinion that the alleged occurrence appears to be private in nature, having only subtle undertones of criminality.
- ii. The alleged offence in question does not appear to exhibit the mental depravity of the Petitioners.
- iii. The alleged occurrence dates back to January, 2018. There is nothing on record to indicate that either before or after the purported compromise, any untoward incident had transpired between the parties.
- iv. The complainant is not likely to support the case of the prosecution and continuation of the proceedings is likely to be a waste of judicial time.
- v. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist

and live in harmony.

vi. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigours of criminal proceedings.

vii. Since the Petitioner and the complainant are residents of the same area / town, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.

viii. The cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Petitioner.

For the reasons stated above, read with the compromise dated 23.02.2021 (Annexure P-2) entered into between the parties, this court in exercise of powers under section 482 Cr.P.C. deems it appropriate to quash the criminal proceedings in the aforesaid case FIR No. 3 dated 05.01.2018 registered under sections 323, 325, 506, 34 of Indian Penal Code and section 3 of the SC/ST Act, 1989, registered at police station Radaur, District Yamuna Nagar on the basis of compromise dated 23.02.2021 (Annexure P-2) entered into between the parties. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the **“Poor Patients' Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients within the

knowledge of its Medical Superintendent.

Disposed of in the aforesaid terms.

All pending application(s), if any, shall stand disposed of.

20.12.2022
Amandeep

(HARSH BUNGER)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No