

263 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-10487-2021
DECIDED ON:12th SEPTEMBER, 2022

MANJEET SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB AND ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Ms. Balwant Kaur, Advocate for
Mr. Rahul Vijay Singh Chugh, Advocate
for the petitioner.

Mr. Aman Dhir, DAG, Punjab.

Ms. Harpreet Kaur Arora, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J

The instant petition has been filed under Section 482 Cr.P.C. for quashing of the FIR No. 54, dated 05.06.2018, under Section 304-A of the Indian Penal Code, 1860, Section 9 of Prohibition of Employment as Manual Scavenger & Their Rehabilitation Act, 2013 and Section 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 amendment 2015, registered at Police Station Cantt Ferozepur (Annexure P-1) and subsequent proceedings arising therefrom on the basis of compromise/affidavit dated 08.01.2021 (Annexure P-2), joint statement dated 05.06.2018 (Annexure P-3) and inquiry report dated 20.06.2018 (Annexure P-4).

The FIR was lodged at the instance of Balveer Chand-respondent No.2, who was allotted the work of cleaning the sewerage. The incident had occurred on 03.06.2018. A perusal of the FIR in the present case indicates that

while cleaning the sewerage Ravi Kumar got entangled in the gas inside and while climbing ladder he fell down. To rescue Ravi Kumar, the complainant as well as Krishan Kumar got down in the sewerage man hole pipe. They put all efforts to bring Ravi Kumar out, but as there was lot of gas inside, they also could not come out and all of them raised alarm. When he got consciousness, he came to know that Constable Lachhman Singh also got down to save all of us and Ravi Kumar, Krishan Kumar and Constable Lachhman Singh have lost their lives.

At the very outset, learned counsel for the petitioner submits that during the pendency of petition, parties have entered into a settlement.

Learned counsel for respondent No.2-complainant has not disputed the factum of settlement/compromise.

Mr. Aman Dhir, DAG, Punjab submits that the FIR was also registered under Section 304-A IPC and in certain cases, FIRs relating to such offences have not been quashed on the basis of mutual consent. He relies upon the judgment of this Court rendered in **“Baldev Singh vs. State of Punjab and another” 2016 (3) L.A.R. 48.**

In Gian Singh vs. State of Punjab and another; (2012) 10 SCC 303, the Supreme Court has explained that there is a distinction between compounding of an offence under Section 320 of the Code of Criminal Procedure, 1973 , and quashing of a case by the High Court in exercise of its inherent powers under Section 482 of the Cr.P.C. The Court had held as under:-

"61....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 favour 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 personal 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.

A similar view was also expressed by the Supreme Court in its later decision in **Narinder Singh and others vs. State of Punjab: (2014) 6 SCC 466**. In its decision, the Court also laid down certain guidelines which the Court requires to bear in mind while considering inherent powers, under Section 482 of the Cr.P.C, to quash proceedings on the basis of a settlement arrived at between the concerned parties. The relevant extract of the decision setting out the guidelines is set out below:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.

29.2. When the parties have reached the settlement and on that basis petition for quashing the criminal proceedings is

filed, the guiding factor in such cases would be to secure:

(i) ends of justice, or

(ii) to prevent abuse of the process of any Court.

While exercising the power the High Court is to form an opinion on either of the aforesaid two objectives.

29.3. Such a power is not be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society. Similarly, for offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by Public Servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.

29.4. On the other, those criminal cases having overwhelmingly and pre-dominantly civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes should be quashed when the parties have resolved their entire disputes among themselves.

29.5. While exercising its powers, the High Court is to examine as to whether the possibility of conviction is remote and bleak and continuation of criminal cases would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal cases.

29.6. Offences under Section 307 Indian Penal Code would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is

a mention of Section 307 Indian Penal Code in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 Indian Penal Code is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 Indian Penal Code. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship.

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material

mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 Indian Penal Code is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 Indian Penal Code and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime."

In **Parbatbhai Aahir Vs. State of Gujrat: (2017) 9 SCC 641**, the Supreme Court, inter alia, observed that "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."

The question whether an FIR, alleging an offence under Section 304-A IPC, can be quashed under Section 482 Cr.P.C. on the basis of a settlement arrived at between the accused and the victims of the incident, is required to be examined on the facts of each case. In a recent decision in **State of Madhya Pradesh vs. Laxmi Narayan & Ors: (2019) 5 SCC 688**, the Supreme Court had referred to various other decisions and had summarized the law relating to the powers exercised under Section 482 of the Cr.P.C. for

quashing criminal proceedings, in the following words:-

"15. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2 Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because

there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc."

In State of Maharashtra vs. Vikram Anantrai Doshi: (2014)

15 SCC 29, the Supreme Court had held that:-

"26.The Court's principal duty, at that juncture, should be to scan the entire facts to find out the thrust of allegations and the crux of the settlement. It is the experience of the Judge that comes to his aid and the said experience should be used

with care, caution, circumspection and courageous prudence..."

In view of the above, it would be necessary for this Court to briefly examine the nature of the allegation and the factual context in which the same has been made, in order to determine whether the ends of justice would be served in quashing the FIR.

Thus, while evaluating whether a proceeding relating to an alleged offence, under Section 304-A IPC, be quashed on the basis of a settlement between the accused and the victim, it would also be necessary to consider whether it is probable that the facts presented would constitute gross negligence and an element of *mens rea*, which is likely to secure a conviction.

It is clear that the deceased persons were involved in the work of cleaning of Sewerage Pipe Line. There does not appear to be much material to establish that the contractor was carrying on work in a dangerous manner. The accident had occurred in the course of the work being performed by the deceased and other workers.

It is also seen from the records of the case that the unfortunate incident took place while cleaning the pipeline then how offence under SC and ST Act is attracted. Further, according to inquiry report (Annexure P-4) submitted by the DSP, Control Room, Ferozepur, no person is at fault in this unfortunate incident. Therefore, it will not be in the fitness of things to keep the proceedings and the present petition pending indefinitely.

In view of the law discussed above, considering the settlement arrived at between the parties, joint statement as well as inquiry report, the present petition is allowed and FIR No. 54, dated 05.06.2018, under Section 304-A IPC, Section 9 of Prohibition of Employment as Manual Scavenger &

Their Rehabilitation Act, 2013 and Section 4 of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 amendment 2015, registered at Police Station Cantt Ferozepur (Annexure P-1) and all subsequent proceedings arising therefrom is quashed.

Ordered accordingly.

12th SEPTEMBER, 2022
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(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>