

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

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**CRM-M-10629-2022
Date of decision: 21.04.2022**

COL. M.K. BHARDWAJ AND OTHERS **.....Petitioners**

VERSUS

STATE OF PUNJAB AND OTHERS **....Respondents**

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

Present: Mr. J.S. Mehndiratta, Advocate
for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Ritesh Pandey, Advocate
for respondents No.4 and 5.

VINOD S. BHARDWAJ. J.(Oral)

1. The petitioners have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.0123 dated 21.11.2018 under Sections 341, 323, 506, 294 & 34 IPC, registered at Police Station Phase-8, Mohali, District SAS Nagar and all consequential proceedings arising therefrom on the basis of compromise/settlement dated 28.02.2022 & 07.03.2022 (Annexures P-2 & P-3) effected between the parties.

2. The parties were directed to appear before the learned trial Court/Illaq Magistrate vide order dated 11.03.2022 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.

3. Pursuant to the said order, report has been received from the Judicial Magistrate First Class, S.A.S. Nagar Mohali vide Memo No.67/1 dated 25.03.2022. The relevant extract of the report is reproduced as under:-

“1. Number of persons arrayed as accused in FIR:

There are four persons arrayed as accused in the present FIR No.. 123 dated 21.11.2018, namely, Col. M.K. Bhardwaj, Harnek Singh Bhullar, Ramandeep Singh and Karnail Singh Hundal.

2. Whether any accused is proclaimed offender?

As per the version of the accused persons, namely, Col. M.K. Bhardwaj, H.S. Bhullar, Ramandeep Singh @ Bawa and K.S. Hundal, they are not proclaimed Offenders/persons in any case.

3. The stage of trial/proceedings; and

Perusal of judicial file reveals that the present case is at the stage of consideration on charge.

4. Whether the compromise is genuine, voluntary and without any coercion or undue influence?

The parties present today have placed on record two compromise deeds i.e. Ex.C1 dated 28.02.2022 & Ex.C2 dated 07.03.2022 arrived at between the parties, which is genuine, voluntary and without any coercion or undue influence”

4. 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.

5. Mr. Ritesh Pandey, Advocate, appears on behalf of respondents No. 4 and 5 and reiterates the settlement and his

concurrence to the FIR and all the other consequential proceeding being quashed.

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 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.

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 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'.

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. 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) A perusal of the case shows that dispute in question pertains to affairs of the society where the parties reside.
- ii) Simple injuries are stated to have been sustained by the complainant as a result of the scuffle between the parties.
- iii) The petitioner Nos.1 to 3 are aged 65 years and 72 years respectively while petitioner No.4 is 35 years of age.
- iv) No purpose would be served by continued incarceration of the petitioners in the above said case.

- v) Even otherwise the petitioners as well as the respondent victims reside in the same residential complex. Continued criminal proceedings are likely to hamper peaceful atmosphere of the society.
- vi) The case is still at the initial stage even though, the FIR was registered in the year 2018. Final report has been filed. Charges have not yet been frame.
- vii) 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;
- viii) Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to subserve any large public interest;
- ix) The proceedings are likely to end in futility for want of parties to support the case of the prosecution;
- x) No larger public purpose would be served by continuation of the proceedings;
- xi) 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.
- xii) 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.

11. In view of the report of the Judicial Magistrate First Class, S.A.S. Nagar Mohali 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. The aforesaid FIR No.0123 dated 21.11.2018 under Sections 341, 323, 506, 294 & 34 IPC, registered at Police Station Phase-8, Mohali, District SAS Nagar **are hereby quashed** qua the petitioners in view of compromise/settlement dated 28.02.2022 & 07.03.2022 (Annexure P-2 and P-3). However, the same would be subject to payment of costs of Rs.2500/- each to be deposited by the petitioners with the **“Poor Patients Welfare Fund'** of the **Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh**, within one month from receipt of certified copy of this order.

Petition is allowed.

APRIL 21, 2022

Vishal Sharma

(VINOD S. BHARDWAJ)
JUDGE

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