

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

242

CRM-M-11985-2021

Date of Decision: 14.12.2022

Avtar Singh and Another

...Petitioners

Versus

State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Rajesh Kapila, Advocate
for the petitioners
Mr. Digvijay Nagpal, AAG Punjab
Mr. Navdeep Singh, Advocate, for
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.139 dated 22.12.2020 (Annexure P-1) under Sections 420 of the IPC, registered at Police Station Sekhwan, District Batala and all subsequent proceedings arising therefrom, on the basis of Compromise dated 29.01.2021 (Annexure P-2).

In terms of order dated 16.03.2021 of this Court, JMIC, Batala, has submitted her report dated 10.06.2021. The relevant extracts of the report as below:

"i. In view of the statements got recorded by both the parties by the Ld. Duty Magistrate Batala and after perusal of the same, the undersigned is satisfied as regards the validity and genuineness of the compromise between petitioners Avtar Singh S/o Bakhshish and Amrik Kaur W/o Avtar Singh both residents of village Khan Piara, Police Station Sekhwan, Tehsil and District Gurdaspur, Punjab and complainant/respondent Jatinder Singh S/o late Bhag Singh and Gurdeep Singh S/o late Santokh Singh both residents of village Budda Kot, Police Station Sekhwan, District Gurdaspur.

ii. In view of statement of I.O/ASI Baljinder Singh No.2375/BTL there are three accused persons in present case and that as regards the antecedent behavior of criminal activity of accused is concerned there is no criminal proceedings pending against accused persons namely Avtar Singh son of Bakshish Singh, Amrit Kaur wife of Avtar Singh and Amandeep Kaur daughter of Avtar Singh.

iii. Perusal of FIR No.139 dated 22.12.2020 reveals that the FIR has been registered on statement of Jatinder Singh and Gurdeep Singh against three persons namely Avtar Singh, Amrit Kaur and Amandeep Kaur. Further the I.O/ASI Baljinder Singh 2375/BTL has suffered a statement that there are three persons arrayed as accused in present case.

iv. In view of the statement of I.O/ASI Baljinder Singh 2375/BTL none of the accused persons have been declared as proclaimed person/offender.”

Learned State counsel submits that and respondent-State has no objection if the present FIR and all subsequent proceedings are quashed.

Learned counsel for private respondents would also submit that he has no objection if the present petition is allowed.

Relying upon its earlier judgments in 'Gian Singh Vs. State of Punjab and others, (2012) 10 SCC 303' and 'The State of Madhya Pradesh Vs. Laxmi Narayan and others (2019) 5 SCC 688', a two Judge Bench of the Hon'ble Supreme Court in 'Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC online SC 834' while dealing with power of High Court under Section 482 of Cr.P.C. to

quash non-compoundable offences on the basis of compromise between the disputing parties has held:

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly 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. 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. 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. vs. State of Punjab & Ors. and Laxmi Narayan (Supra).

In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other

dubious means. It is well said that “let no guilty man escape, if it can be avoided.”

From the perusal of the enclosed FIR, report of the Trial Court and compromise arrived between the parties, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The alleged offences are of pre-dominantly private in nature and no moral turpitude or interest of public at large is involved. There appears to be no chance of conviction, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly is allowed. FIR No.139 dated 22.12.2020 (Annexure P-1) under Sections 420 of the IPC, registered at Police Station Sekhwan, District Batala and all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

14.12.2022

Mohit Kumar

Whether speaking/reasoned *Yes/No*

Whether reportable *Yes/No*