

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

CRM-M-9618-2020

Date of Decision:06.12.2022

KUNAL AND OTHERS

..... Petitioners

Versus

STATE OF HARYANA AND ANOTHER

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Lajpat Sharma, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. R.K. Malik, Advocate for
Mr. P.S. Mithewal, Advocate
for the complainant.

JAGMOHAN BANSAL, J. (Oral)

This petition is filed under Section 482 Cr.P.C. for quashing of FIR No. 538, dated 05.10.2019, under Sections 148, 149, 323, 452 and 506 of IPC, registered at Police Station Pehowa, District Kurukshetra (Annexure P-1), and all other consequential proceedings arising therefrom, on the basis of compromise/ affidavit dated 03.12.2019 (Annexure P-2).

In terms of order dated 04.03.2020 of this Court, learned Sub Divisional Judicial Magistrate, Pehowa has submitted his report dated 06.08.2022. The relevant extracts of the report are as below :-

“In compliance of said order, the statements of complainant Anuj Attri as well as accused Kunal Attri, Vikrant Sharma @ Janu and Sandeep Singh were recorded on 05.08.2022. In his statement, Complainant Anuj Attri stated that he has entered

into a settlement with accused persons namely Kunal, Vikrant and Sandeep, which was done at the behest of elders and respectables of the society. He does not wish to pursue the present case against the accused persons and he has no reservations if present FIR against the accused persons is quashed. On the other hand, accused Kunal Attri, Vikrant Sharma @ Janu and Sandeep Singh vide their joint statement dated 05.08.2022 submitted that they have entered into a compromise with complainant Anuj Attri in the present case whereby complainant does not wish to continue the present case against them. They have no objection if the present case is quashed by the Hon'ble High Court. Statement of SI Ramesh Kumar was recorded on 05.08.2022 to the effect that present case was registered on the statement of Anuj Attri son of Suresh Kumar, resident of Purana Bazaar, Pehowa against Kunal Attri, Vikrant Sharma, Sandeep Singh, Ritik, Saroj and Manish Kumar, who reportedly caused injuries to Anuj Attri and Rahul Sharma. Ritik, Saroj and Manish Kumar were found innocent and challan against accused Kunal, Vikrant Sharma and Sandeep Singh has been presented before the Court. SI Ramesh Kumar further stated that neither arrest of any accused is pending in present case nor any of accused has been declared as proclaimed offender. Except the present case i.e. FIR No. 538 dated 05.10.2019, no other case is registered against accused Kunal, Vikrant Sharma and Sandeep. From the statements of parties and perusal of the case file, it is observed that compromise appears to be genuine and voluntary without any threat or coercion and none of the accused is declared proclaimed person in present case.”

Statement of Investigation Officer was recorded by Trial Court and said statement is part of report dated 06.08.2022 submitted by learned Trial Court.

Learned State counsel on instruction from Investigating Officer submitted that State has no objection if FIR and consequent proceedings in view of compromise are quashed.

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 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.](#) 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.](#)³ and *Laxmi Narayan (Supra)*.*

14. 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 between 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. 538, dated 05.10.2019, under Sections 148, 149, 323, 452 and 506 of IPC, registered at Police Station Pehowa, District Kurukshetra (Annexure P-1), and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)

JUDGE

06.12.2022

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