

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

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**CRM-M-12672-2022
Decided on : 06.09.2022**

Ajay Vir Sehgal

... Petitioner(s)

Versus

State of Punjab and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Saurabh Singh, Advocate for
Mr. Pardeep Bajaj, Advocate
for the petitioner(s).

Mr. A.S. Sandhu, AAG, Punjab.

Mr. Japjit Singh Johal, Advocate
for respondent No.2 – Complainant.

SANJAY VASHISTH, J. (Oral)

The prayer in this petition filed under Section 482 Cr.P.C., is for quashing of an FIR No.205, dated 28.04.2021, lodged under Sections 420, 511 of IPC, registered at Police Station Zirakpur, District SAS Nagar (Mohali) (Annexure P-1), along with all consequential proceedings arising therefrom on the basis of a compromise dated 22.03.2022 (Annexure P-2), arrived at between the parties.

Vide order dated 25.03.2022, this Court had directed the parties to appear before Illaqa Magistrate/trial Court for getting their statements recorded with regard to the compromise dated 22.03.2022 (P-2).

The Illaqa Magistrate/trial Court was to submit a report in this regard giving certain details as enumerated in the said order.

Pursuant to the orders dated 25.03.2022 passed by this Court, the parties have appeared before the Judicial Magistrate 1st Class, Dera Bassi, and as per the report dated 24.05.2022 submitted to this Court, both the

parties have got recorded their respective statements in Court.

A perusal of the aforesaid report would show that the parties have effected a genuine compromise without there being any pressure, coercion or undue influence. In view of the compromise there is a remote possibility of the complainant coming forward to support the prosecution case. The powers under Section 482 Cr.PC can be exercised in such like situation in order to prevent unnecessary vagaries of criminal trial to be faced by the parties, when there are remote chances of conviction of the accused. The compromise in question is found to be fully in consonance with the direction issued by the Court in ***“Kulwinder Singh & Ors. Vs. State of Punjab 2007(3) RCR (Criminal) 1052 and Gian Singh Vs. State of Punjab & Anr., 2012(4) RCR (Crl.) 543”***.

Besides above, on putting a question to learned counsel for respondent No.2, as to whether powers under Section 482 Cr.P.C. be invoked or not for quashing of the proceedings for the offences, which are otherwise compoundable before the trial Court by moving appropriate application under Section 320 Cr.P.C., counsel for respondent No.2 relies upon the observations made by Hon’ble Apex Court in **Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303**, and read out paragraph Nos. 57 & 61, which says as under:-

“57. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal

offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

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xx xxx xx xxx

61. *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 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.”

Learned counsel for respondent No.2 further relies upon the order dated **26.08.2022**, passed by this High Court in **CRM-M-18939-2022 (Raj Sharma and others Vs. State of Haryana and others)**, wherein, proceedings under Sections 120-B, 406 & 420 IPC, all being compoundable offences with the permission of the Court were quashed by this High Court under Section 482 Cr.P.C.

Learned counsel for respondent No.2 also relies upon another judgment of the Hon'ble Apex Court rendered in **Narinder Singh and others Vs. State of Punjab, (2014) 6 SCC 466**, wherein, paragraph 29(i) says as under:-

“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:

(I) 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.”

The view taken in **Narinder Singh’s case** (supra), was reiterated by the Hon’ble Apex Court in subsequent judgments also and one is **Ram Gopal and another Vs. The State of Madhya Pradesh (CRA No. 1489 of 2012)**, decided on **29.09.2021**.

On relying upon the observations made by the Hon’ble Apex Court regarding the powers of High Court under Section 482 Cr.P.C., and in view of the aforesaid report of the learned Judicial Magistrate 1st Class, Dera Bassi, accompanied by statements of both the parties, the FIR No.205, dated 28.04.2021, lodged under Sections 420, 511 of IPC, registered at Police Station Zirakpur, District SAS Nagar (Mohali), along with all consequential proceedings arising therefrom are hereby quashed qua the petitioner.

Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

September 06, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*