

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

112

**CRR-815-2022 (O&M)
Decided on : 20.10.2022**

Tek Chand

... Petitioner(s)

Versus

State of Haryana and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Tek Chand, petitioner in-person.

SANJAY VASHISTH, J. (Oral)

Members of the Bar are abstaining from work today.

Petitioner – Tek Chand, appears in person and produces photocopy of the Aadhar Card, which is duly signed by him and same is taken on record, subject to all just exceptions.

1. After being convicted and sentenced under Section 138 of the Negotiable Instruments Act, 1881 (for brevity, 'NI Act'), efforts were made for amicable settlement by the respective parties. On 07.07.2022, Memorandum of Understanding /Settlement Agreement and one affidavit dated 07.07.2022, were prepared and same were taken on record, as Annexures P-2 & P-4, respectively.

2. Thereafter, co-ordinate Bench of this Court vide order dated 14.07.2022, granted interim bail to the petitioner and referred the parties for recording of their statements before the Illaqa Magistrate/trial Court. Order dated 14.07.2022, says as under:-

**“CRM-16265-2022 in/and
CRR-815-2022**

Learned counsel for the petitioner submits that petitioner was convicted for commission of offence under Section 138 of the Negotiable Instruments Act, 1881 vide judgment dated 09.01.2020

and has been sentenced to undergo simple imprisonment for a period of 06 months vide orders of sentence dated 10.01.2020 passed by the Judicial Magistrate First Class, Panipat in Criminal complaint No. 524 of 2018 titled as “Ved Pal Kadyan versus Tek Chand”. He contends that the settlement has already been executed between the parties and that in view thereof the main revision petition can be compounded.

Mr. Nitish Sharma, Advocate appears on behalf of complainant for respondent No.2 and does not dispute the factum of the settlement having been executed between the parties and the due amount having been paid to the satisfaction of the complainant-respondent No.2.

In view of the same, the parties are directed to appear before the Illaqa Magistrate/trial Court on 26.07.2022 or any other date convenient to the Court for recording their respective statements with regard to compromise/settlement.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing.

To come up on 16.08.2022 for further consideration.

In the meanwhile, the applicant-petitioner is directed to be released on interim bail on furnishing of his bail bonds/surety bonds to the satisfaction of the Illaqa Magistrate/trial Court.”

3. Thereafter, while awaiting the report of Ld. Magistrate, interim bail granted to the petitioner was extended in view of the factum of already undergone period of 1 month and 29 days in custody.

4. Matter came up for hearing on on 19.10.2022, and it was noticed that though the statements of the parties in regard to the compromise have been recorded and the report has also been forwarded to this Court, which is available on the case file, but on account of non-appearance of the learned counsel for the respective parties due to abstaining from work on account of a call given by the Bar, it could not be decided and was adjourned for today i.e. 20.10.2022. Order dated 19.10.2022, says as under:-

“Counsel are abstaining from work today.

Although without assistance of respective counsel for the respective parties, deciding of such like matters is not possible in normal course, but looking at the circumstances that members of the Bars through the States of Punjab, Haryana and UT Chandigarh are abstaining from work, complete reliance is placed upon the report forwarded by Ld. JMIC, Panipat, vide memo No. 688, dated 06.08.2022, authenticating the compromise between the parties. Report is available in the case file.

For considering the report and issue of disposal of revision petition, case is adjourned to 20.10.2022.

To be shown in the urgent list.”

5. Today also, situation is same as the call of the Bar from abstaining from work is continuing, and thus, there is no assistance from either sides. In these circumstances, this Court has no option except to completely rely upon the report forwarded by the Ld. Magistrate vide Memo No. 688, dated 06.08.2022, which says as under:-

“1. Vide order dated 14.07.2022, passed by Hon'ble Justice Vinod S. Bhardwaj, Hon'ble Judge, Hon'ble Punjab and Haryana High Court in CRM-24089-2022, CRM-16265-2022 & CRR-815-2022, direction was given to the parties to appear before the Illaqa Magistrate/Trial Court on 26.07.2022 or any other date convenient to the court for recording their respective statements with regard to compromise/settlement. Further Trial Court was directed to submit a report along with copies of statements of parties on or before the next date of hearing.

2. In compliance of the directions of Hon'ble High Court, complainant-Ved Pal Kadian son of Bishan Singh and accused-Tek Chand son of Om Dutt, appeared before the trial court on 30.07.2022. Both the parties were duly identified by their respective counsels. Both the parties stated that they have entered into a compromise voluntarily and without any pressure. Accused has made full and final payment to the complainant as per the settlement. Complainant received the payment from the accused in presence of panchayat of respectable people. Complainant stated that he has no objection if the proceedings against the accused are quashed. Separate statements of both complainant and accused were recorded

in this regard.

3. *It is submitted that as per the statement of complainant and accused, the compromise/settlement between parties is genuine, voluntary and without any pressure. Accused has made full and final payment to the complainant in presence of panchayat. Accordingly in compliance of the aforesaid order of Hon'ble High Court report dated 06.08.2022 is hereby sent to the Hon'ble Punjab & Haryana High Court, Chandigarh through proper channel."*

6. The Full Bench of this Court in the matter of **Kulwinder Singh and others v. State of Punjab and another**, 2007 (3) RCR (Criminal) 1052, has 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 others**, 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 v. State of Punjab and another**, (2012) 10 SCC 303. Furthermore, 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 v. State of Gujarat and another**, (2017) 9 SCC 641.

8. The Hon'ble Supreme Court has held in the matter of **Ramgopal and another v. 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.”

9. After going through the material available on record, this Court finds that there appears to be substance in the facts and circumstances of the case that pendency of the present criminal litigation would be abuse of process of law since the chances of conviction of the petitioner are bleak in view of the compromise so effected between the private parties.

10. The report alongwith statements of the affected parties received from learned Court below would reveal that the aggrieved person has genuinely effected a compromise with the petitioner and he has no objection, if the impugned FIR and consequential proceedings are quashed.

11. Keeping in view totality of the facts and circumstances of the case and taking into consideration the ratio of the judgments in the cases of

Gian Singh (supra), Ramgopal (supra) and Kulwinder Singh (supra), and also in view of the said compromise, this petition is accepted and the proceedings emanating from the Criminal Complaint No. 524 of 2018, dated 06.03.2018/02.04.2018 (CIS No. NACT/603/2018), titled as, “Ved Pal Kadyan Vs. Tek Chand”, including the judgments passed by the Courts below as well as all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioner.

12. Petition stands disposed of.

CRM-16265-2022

Since main revision petition has been disposed of, no further orders are required to be passed in this application.

Disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

October 20, 2022

J.Ram

Whether speaking/reasoned: *Yes/No*

Whether Reportable: *Yes/No*