

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

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CRM-M-14783-2019

Date of decision: 15.12.2022

JORGEDEEP AND ORS.**...Petitioners****VERSUS****STATE OF HARYANA AND ORS.****...Respondents****CORAM : HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Pawan Attri, Advocate
for the petitioners.

Mr. Arun Tewatia, AAG, Haryana.

Mr. Fateh Saini, Advocate
for respondents No.2 and 3.

DEEPAK MANCHANDA, J.(ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.368 dated 07.10.2013 under Sections 148, 149, 323, 324, 325, 326 and 452 of IPC, registered at Police Station Pehowa, District Kurukshetra vide which the petitioners were convicted by the Judicial Magistrate First Class, Pehowa vide judgment of conviction dated 19.03.2019 and sentenced to undergo RI for 03 years and the appeal thereof is pending before the Additional Sessions Judge, Kurukshetra and all subsequent proceedings arising therefrom, including judgment and order of sentence dated 19.03.2019 (Annexure P-3) passed by learned JMIC, Pehowa, on the basis of compromise (Annexure P-2) .

Brief facts of the FIR are that on 06.10.2013, the petitioners came to the complainant's house and attacked him and his wife and mother and inflicted gandasi and danda blows, slaps and fist blows causing injuries to the complainant's nose and teeth.

Mr. Fateh Saini, Advocate had put in appearance on behalf of

respondents No.2 as well as respondent No.3 and admitted the factum of compromise. Vide order dated 01.04.2019, after issuance notice of motion, this Court had directed the private parties to appear before the Illaqa Magistrate/trial Court to get recorded their statements and trial court was directed to send its report on the basis of the statements so recorded to this Court, before the next date of hearing.

In pursuance of the said order, the report forwarded vide letter no. 1714 dated 09.04.2019 has been submitted by the Judicial Magistrate First Class, Pehowa, which is on record. The relevant part of the report is reproduced hereinbelow:-

1.	Number of person arrayed as accused in FIR.	Eight persons.
2.	Whether any accused is proclaimed offender	Accused Dabbu alias Vijay has been declared offender vide order dated 19.03.2019
3.	Whether the compromise is genuine, voluntary and without any coercion or undue influence.	Yes, the compromise is genuine voluntary and without and coercion or undue influence
4.	Whether the accused persons are involved in any other case or not.	No, the accused persons are not involved in any other case, as per the report Ex.PA.
5.	Number of victims/complainant in the FIR.	Complainant/Injured Goldi alias Anil as well as his mother Meena were injured in the incident.

In view of the statements of the complainant/injured, injured as well as accused persons and the investigating officer in the present case, this Court is of the considered opinion that the complainant and the accused persons have compromised the matter voluntarily and without any pressure, coercion or undue influence. The compromise arrived between the parties is genuine. To establish the identity, self-attested photocopies of Aadhar card of all the accused persons as well as complainant/injured and injured is also annexed. Attested copies of the statements of the parties be transmitted to the Hon'ble Punjab and Haryana High Court, Chandigarh.”

In compliance of the order dated 01.04.2019, reply dated 22.08.2019 on behalf of respondent No.1-State has been filed, vide which it

has been stated that the petitioners stand convicted vide judgment dated 19.03.2019.

A perusal of the report received from Judicial Magistrate Ist Class, Pehowa, would show that statements of the concerned persons have been recorded in this case, who have stated that the matter has been compromised and complainant-respondent No.2 as well as respondent No.3 have no objection in case the FIR in question is quashed and none of the petitioners have been declared as proclaimed offender. Report further transpires that the said compromise is genuine, voluntary, and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that there is no other FIR registered against the petitioners and they have not been declared as proclaimed offenders and also submits that during the pendency of the present petition CRA-154-2019 against the judgment of conviction dated 19.03.2019 was filed which is still pending before Sessions Court, Kurukshetra and learned State counsel has not disputed this fact.

Having heard the learned counsel for the parties and after perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant and by the passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably. Therefore to prevent the abuse of the process of law and to secure the ends of justice, the criminal proceedings deserves to be quashed, under section 482 of Cr. P.C., which has the magnitude of inherent jurisdiction of the High Court under it and this Court has the inherent power under Section 482 of Cr.P.C. to quash an F.I.R. even when the offences are non-compoundable, with the driving force

being the object of securing ends of justice.

As per the Full Bench judgment of this Court in “Kulwinder Singh and others Vs State of Punjab”, 2007 (3) RCR (Criminal) 1052, it is held that:-

“27. 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 the exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be it in the shape of Section 320(9) of the Criminal Procedure Code, or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code.

28. The compromise, in modern society, is the sine qua non of harmony and orderly behavior. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances social amity and reduces friction, then it truly is the "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 Criminal Procedure Code 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.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Criminal Procedure

Code is to be exercised Ex-Debitia Justitia to prevent abuse of the process of Court. There can neither be an exhaustive list nor the defined parameters 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 Criminal Procedure Code has no limits and the Court is a vital and extraordinary effective instrument to maintain and control social order and play a 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 endeavor to give full effect to the same unless a such compromise is abhorrent to the lawful composition of the society or would promote savagery.”

Hon'ble the Apex Court in the case of “**Gian Singh Vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, had also observed:-

“57. 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 exercising of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offenses 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 a 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.”

The view taken by the Hon'ble Supreme Court regarding quashing of FIRs where the compromise is struck, post conviction, has been

discussed in **“Ram Gopal & Anr. Vs. State of Madhya Pradesh” 2021(4)**

RCR (Criminal) 322, relevant of which is as under:-

"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 extraordinary 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).”

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20. Having appraised the afore-stated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature: that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal (s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute (s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired

between the parties;

Sixthly, since the Appellants and the complainant

(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decisively to forget and forgive any ill-will and have no vengeance against each other; and

Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.”

In view of the report of Judicial Magistrate First Class, Pehowa, the compromise dated 26.03.2019 (Annexure P-2) and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Consequently, and for the reasons stated above, read with the compromise dated 26.03.2019 (Annexure P-2), this Courts finds it appropriate to invoke the power under Section 482 Cr.P.C. and quash the criminal proceedings in the aforesaid case.

As a sequel thereto, the petition is allowed and all offences emanating out of FIR No.368 dated 07.10.2013 under Sections 148, 149, 323, 324, 325, 326 and 452 of IPC, leading to conviction and sentence of the petitioner by the trial Court stand quashed qua the petitioners only and consequently, the judgment of conviction and order of sentence passed by the trial Court dated 19.03.2019, are set aside as well.

December 15, 2022

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(DEEPAK MANCHANDA)

JUDGE

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No