

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

242

CRM-M-18212-2022
Date of Decision: 16.08.2022

Palvinder Singh

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.Mayur Karkra, Advocate
for the petitioner.

Ms. Ambika Sood, Additional Advocate General, Haryana.

Ms.Aaina Walia, Advocate for
Mr. Mohit Rathee, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

This petition is filed under Section 482 Cr.P.C. for quashing of FIR No.672 dated 26.12.2020 under Sections 323, 506 and 34 of the IPC registered at Police Station Gharaunda, District Karnal and all other consequential proceedings arising therefrom, on the basis of compromise/ affidavit dated 24.02.2022 (Annexure P-2).

On 02.05.2022, this Court has passed the following order :-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No.672 dated 26.12.2020 under Sections 323 and 506 IPC read with Section 34 IPC, registered at Police Station Gharaunda, District Karnal, and all other consequential proceedings arising therefrom, on the basis of compromise dated 24.02.2022

(Annexure P/2) arrived at between petitioner and respondent No.2 – complainant.

Notice of motion.

At the asking of Court, Mr. Bhupinder Singh, DAG, Haryana, accepts notice on behalf of respondent No.1-State and seeks time to place on record report, if any. At this juncture, Ms. Aaina Walia, Advocate for Mr.Mohit Rathee, Advocate, has put in appearance on behalf of respondent No.2 – complainant. Complete copies of paper book be supplied to them during course of the day.

Learned counsel appearing for respondent No.2 – complainant has given concurrence to the factum of compromise Annexure P/2.

Let the parties appear before the Trial Court/Area Magistrate, as the case may be, on 23.05.2022 at 10:00 A.M. or any other date to be fixed by Trial Court/ Area Magistrate for getting their statements recorded with regard to the compromise. Court is directed to report on the following points:-

- (i) how many total accused are facing the trial,*
- (ii) whether any of the accused was declared proclaimed offender at any stage of trial,*
- (iii) status/stage of the trial/case,*
- (iv) to record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the compromise.*
- (v) to record the statement of Investigating Officer with regard to points No.(i), (ii) and (iii) as above.*

Report be sent through District and Sessions Judge, before the next date of hearing.

Adjourned to 16.08.2022.”

In compliance of the aforesaid order, learned Judicial Magistrate Ist Class, Karnal, has submitted the report as below :-

“It is humbly submitted that in compliance of order dated 02.05.2022 passed by the Hon'ble Punjab & Haryana High Court in CRM NO.M-18212 of 2022, the parties have appeared and their respective statements are recorded.

I have also inquired from both the parties, especially from complainant Tejinderpal Singh alias Tinka who have stated that the compromise has been arrived between them and the same is not due to any threat, coercion or undue influence from the accused side and is a volunteer act of the parties. I have also enquired the Investigating Officer who has stated that two accused were named however one was deleted by the concerned DSP in his investigation. Further stated that no one is Proclaimed Offender and final report is not yet submitted.

Further following information is also sought by Hon'ble High Court.

“i) Ques : How many total accused are facing the trial?

Ans : There is only one accused Palvinder Singh who is stated to be accused in present FTR. Though as per the statement of the Investigating Officer Sh. Satish Kumar belt no. 98 Karnal the other has been found to be innocent in investigation by the Concerned DSP Karnal

ii)Ques: Whether any of the accused was declared proclaimed offender at any

stage of trial?

Ans: No.

iii)Ques: Status/stage of the trial case?

Ans: No Final Report under Section 173 (2) of Code of Criminal Procedure is submitted in the court.

iv)Ques: To record the statements of all the concerned parties with regard to the genuineness and validity or otherwise of the Compromise?

Ans. After going through the statements of the parties and after enquiring from the I.O., I am of the view that the compromise has been arrived between the complainant party and accused persons voluntarily without any threat, pressure, undue influence or coercion. Thus in my considered opinion the compromise arrived at between the two sides is genuine and voluntary act of the parties and the complainant has no objection in quashing of FIR registered against Palvinder Singh. Hence the compromise is genuine.

5. The requisite report, alongwith the original statements of parties, is being submitted as desired, please.”

Learned State counsel does not dispute the factum of the compromise amongst the parties and does not have any serious objection to the resolution of the dispute amongst the parties.

Learned counsel appearing on behalf of respondent No.2

reiterates the factum of compromise and his concurrence to the FIR and all

the other consequential proceeding being quashed.

A five-Judge Bench of this Court in *Kulwinder Singh v. State of Punjab* [(2007) 4 CTC 769] was called upon to determine, inter alia, the question whether the High Court has the power under Section 482 of the Code to quash the criminal proceedings or allow the compounding of the offences in the cases which have been specified as non-compoundable offences under the provisions of Section 320 of the Code. The larger Bench framed the following guidelines :-

“21. ... ‘(a) Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.

(b) Cases pertaining to property disputes between close relations, which are predominantly civil in nature and they have a genuine or belaboured dimension of criminal liability. Notwithstanding a touch of criminal liability, the settlement would bring lasting peace and harmony to larger number of people.

(c) Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim.

(d) Minor offences as under Section 279 IPC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet another offence which remains non-compoundable is Section 506(II) IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148 IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act 17 of 1999 (Section 3) has

made Sections 506(II) IPC, 147 IPC and 148 IPC compoundable offences by amending the schedule under Section 320 Cr.P.C.

(e) The offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by public servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter VII (relating to army, navy and air force) must remain non-compoundable.

(f) That as a broad guideline the offences against human body other than murder and culpable homicide may be permitted to be compounded when the court is in the position to record a finding that the settlement between the parties is voluntary and fair.

While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution.'

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 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'."

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No embargo, be in the shape of Section 320(9) CrPC, or any

other such curtailment, can whittle down the power under Section 482 CrPC.

24. ***

25. The only inevitable conclusion from the above discussion is that there is no statutory bar under CrPC 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 CrPC, in order to prevent the abuse of law and to secure the ends of justice. The power under Section 482 CrPC is to be exercised ex debito justitiae to prevent an abuse of 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 CrPC 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 extraordinary effective instrument to maintain and control social order. The courts play role of paramount importance in achieving peace, harmony and everlasting 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.”

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 Versus State of Punjab and another, (2012) 10 SCC 303'. Still further, 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 versus State of Gujarat and another*' (2017) 9 SCC 641', the same are extracted as under:

“16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6 In the exercise of the power under Section 482 and

while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

It is evident that in view of the amicable resolution of the issues amongst the parties, no useful purpose would be served by continuation of the proceedings. The furtherance of the proceedings is likely to be a wastage of judicial time and there appears to be no

chances of conviction.

In view of the report of the learned Judicial Magistrate Ist Class, Karnal and the principles laid down by the Apex Court in *Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303*, as well as *Ramgopal And Another Vs State of Madhya Pradesh 2021 SCC Online SC 834* and also by the Full Bench of this Court in *Kulwinder Singh and others Vs. State of Punjab and another, [(2007) 4 CTC 769]*, the instant petition is allowed.

The aforesaid FIR No.672 dated 26.12.2020 under Sections 323, 506 and 34 of the IPC registered at Police Station Gharaunda, District Karnal and all other consequential proceedings arising therefrom are quashed qua the petitioner.

(JAGMOHAN BANSAL)
JUDGE

16.08.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>