

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

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**CRM-M-32877-2020(O&M)
Date of decision:03.08.2022**

BHUPINDER SINGH AND ANR

...Petitioners

Versus

STATE OF PUNJAB AND ORS

...Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present : Mr. H.S. Sidhu, Advocate for the petitioners.

Mr. Karanbir Singh, AAG, Punjab.

Mr. A.S Khosa, Advocate
for respondent No.2.

VINOD S. BHARDWAJ. J. (ORAL)

By means of the instant petition, the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure has been invoked for seeking quashing of FIR No.56 dated 15.09.2019 under Sections 307, 427, 148 and 149 of the Indian Penal Code, 1860 and Sections 25 and 27 of the Arms Act, 1959 registered at Police Station Harike, District Tarn Taran and all other consequential proceedings arising therefrom, on the basis of compromise dated 29.05.2020 (Annexure P-2) entered between the parties.

2 The parties were directed to appear before the learned trial Court/Illaq Magistrate vide order dated 06.04.2022 of this Court, to get their statements recorded regarding the compromise arrived at between the parties and a report in this regard was called for.

3. Pursuant to the said order, report has been received from the Judicial Magistrate First Class, Patti vide Memo No.253 dated 15.06.2022.

The relevant extract of the report is reproduced as under:-

“i). As per statement of ASI Savinderpal Singh no.641 T.T. Two persons arrayed as accused in the present FIR:

ii) As per statement of ASI Savinderpal Singh no.641 T.T, no accused is proclaimed offender :

iii) Final report under Section 173 of Cr.PC in the present case has not been presented in the Court till today.

iv). The compromise made by the parties seems to be genuine, voluntary, and without any coercion or undue influence;

v) The compromise has been effected with all accused persons and with all complainant/injured.”

4. 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.

5. Mr. A.S Khosa, Advocate appears on behalf of respondent No.2 and reiterates the settlement and his concurrence to the FIR and all the other consequential proceedings being quashed.

6. The Full Bench of this Court in the matter of “***Kulwinder Singh and others versus State of Punjab and another***” reported as (***Punjab and Haryana High Court***) : 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 Ors.*, 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 Versus 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 versus State of Gujarat and another" (2017) 9 SCC 641'.

8. 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 waste of judicial time and there appears to be no chances of conviction.

9. The Hon'ble Supreme Court has held in the matter of **'Ramgopal And Another Vs 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.

10. A co-ordinate bench of this Court in the matter of **'Paramjit Singh Vs. State of Punjab in CRM-M No.19386 of 2010'** on 07.09.2010 has compounded the offence under Section 307 IPC on the basis of

compromise effected between the parties. The relevant paragraphs are reproduced hereinbelow :-

5. *An aspect which is to be borne in mind in order to ascertain whether an offence under Section 307 Indian Penal Code is made out is the intention or knowledge. Besides, intention or knowledge of the accused must be such as is necessary to constitute murder. The first part of Section 307 Indian Penal Code envisages such intention or knowledge and such circumstances that the act done by the offender would cause death and he would be guilty of murder. This would constitute an attempt of murder. The second part relates to causing of hurt by such act that is of having intention or knowledge and under such circumstances that by such an act death would be caused and the offender would be guilty of murder. This also constitutes an offence of attempt to murder. Therefore, the substance of the offence, is the intention or knowledge that the act which is done is such that death would be caused and the offender would be guilty of murder but death is not actually caused.*

6. *In Sarju Prasad v. State of Bihar, AIR 1965 Supreme Court 843, it was held by the Hon'ble Supreme Court that to attract the provisions of Section 307 Indian Penal Code, the prosecution is to establish the intention of the accused that the injury which was caused was one of the kinds referred in Section 300 Indian Penal Code and unless the prosecution discharges the burden, the offence under Section 307 Indian Penal Code cannot be brought home. A knife blow was caused in the said case on a vital region of the injured but no vital organ of the injured was cut on account of the injury. The accused was convicted by the High Court for an offence under Section 307 Indian Penal Code. It was held by the Hon'ble Supreme Court that the state of mind has to be deduced from the surrounding circumstances. Besides, also the*

existence of a motive to cause death would be a relevant consideration. Taking the totality of the circumstances, it was held that there was no intention of murder nor an inference could be drawn that there was an intention to cause injury which may result in death. Accordingly, it was held that the prosecution had failed to establish that the offence which was committed fell squarely under Section 307 Indian Penal Code and in the opinion of their Lordships, it amounted to an offence under Section 324 Indian Penal Code in Kundan Singh v. State of Punjab, AIR 1982 Supreme Court 62, simple injuries were received from gun shots fired from the gun by the accused. The injured were in the courtyard of their house, when the accused therein opened fire. It was held that the accused could not have intended to injure them. The conviction of the appellant in the said case for the offence under Section 307 Indian Penal Code was held to be not justified.

7. *Therefore, merely because the petitioner Parmjit Singh is stated to have fired, an inference cannot be drawn that he had the intention to commit the offence of murder which would amount to offence of attempt to murder under Section 307 Indian Penal Code. Besides, the parties having amicably resolved their dispute which is purely personal in nature close associates who had been joining the marriage of ceremonies of each other at one point of time. Therefore, it would be just and expedient to quash the FIR, so that there is peace and goodwill amongst the close associates.*

11. It would also be pertinent to mention that co-ordinate Benches of this Court in the matter of ***Amarjot Singh & Anr. v. State of Punjab & Anr decided on 20.11.2019 in CRM-M-6992 of 2019***; in a bunch of petitions along with ***CRM-M- 27364-2017 titled as Parveen Kumar @***

Rocki & Ors v. State of Punjab and Ors decided on 15.12.2020; the matter of *Ankit & Another v. State of Harayana & Ors in CRM-M-41972-2021 decided on 21.12.2021* and the matter of *Mohinder Singh & Anr v. State of Punjab & Anr in CRM-M-50422-2021 decided on 22.12.2021*, quashed the FIR as well as proceedings for offence relating to Section 307 IPC.

12. A similar position has also been followed by the High Court of Delhi vide order dated 12th March, 2021 in the matter of *Mohd Umair @ Umer v. State (Govt NCT of Delhi) and Ors*, wherein the proceedings for offence under Section 307 IPC were quashed, in view of the compromise effected amongst the parties.

13. The following relevant factors emerge from perusal of the case as well as the subsequent developments supplementing a case for invocation of the powers under Section 482 CrPC:-

- i. The present FIR was registered as an outcome of a scuffle between the parties wherein gun shot was fired. Section 307 IPC has only been attracted on account of intention as this is a case of no injury as the shots were fired in the air;
- ii. The petitioners are in their twenties and continued criminal incarceration is likely to result in negative impact on their future prospects;
- iii. The case is still at the initial stage as FIR is registered in the year 2019 and challan has not been filed yet;
- iv. The offence in question cannot be said to be heinous or as an offence that would be shocking to the conscience of the society or public at large. It can also not be termed as one shocking to the conscience of the Court;

- v. Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to subserve any large public interest;
- vi. The complainant is not likely to support the case of the prosecution. Continuation of the proceedings is likely to be a waste of judicial time. The proceedings are likely to end in futility for want of parties to support the case of the prosecution;
- vii. No larger public purpose would be served by continuation of the proceedings;
- viii. Parties do not suffer any criminal antecedents and have not indulged in any such or similar case during the pendency of the case or after registration of the FIR.
- ix. The object of law is well served when the parties resolve their differences and choose to peacefully co-exist and live in harmony.

11. In view of the report of Judicial Magistrate First Class, Patti 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(3) RCR (Criminal) 1052*, the instant petition is allowed. FIR No.56 dated 15.09.2019 under Sections 307, 427, 148 and 149 of the Indian Penal Code and Sections 25 and 27 of the Arms Act, 1860 registered at Police Station Harike, District Tarn Taran and all other consequential proceedings arising therefrom, **are hereby quashed** qua the petitioners on

the basis of compromise dated 29.05.2020 (Annexure P-2) entered between the parties. However, the same would be subject to payment of costs of Rs.15,000/- each to be deposited by the petitioners with the '**High Court Lawyer's Welfare Fund**' within one month from receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

03.08.2022
Amandeep

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No