IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M- 22200-2022 (O&M)
Date of Decision: 17.11.2022

Neeraj Kumar and others

... Petitioners

V/s.

State of Haryana and Others

... Respondents

CORAM: ***HON'BLE MR. JUSTICE DEEPAK MANCHANDA***

Present : Mr. Lalit Kumar Yadav, Advocate
for the petitioners.

Mr. Karan Garg, AAG,Haryana.

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DEEPAK MANCHANDA, J.(Oral)

This petition has been filed under Section 482 Cr.P.C. praying for the quashing of FIR No. 341 dated 02.10.2020 under Sections 147, 149, 323, 452 and 506 IPC registered at Police Station Sector 50, District Gurugram and all the subsequent proceedings emanating therefrom on the basis of compromise dated 02.04.2022 (Annexure P-2).

The allegations qua the petitioners are that the petitioner No. 1 along with other 15-18 people entered the house of the complainant/respondent No. 2 and attacked and gave beatings to him and his family members.

Mr. Badal Malik, Advocate has put in appearance on behalf of

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respondents No. 2 to 4 and admitted the factum of compromise. On 09.08.2022, this Court had directed the private parties to appear before the Illaqa Magistrate/trial Court (as the case may be) to get recorded their statements and trial court would satisfy itself about the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

In pursuance of the said order, the report forwarded vide letter No. 3086/C-29 dated 08.09.2022 has been submitted by the Judicial Magistrate Ist Class Gurugram, which is on record. The relevant part of the report is reproduced hereinbelow:-

"The compromise is willful and without any pressure or misrepresentation; charge under Sections 147/323/506 (Part-1)/149 IPC was framed against all accused on 13.09.2021 but no prosecution witness is examined till date; All injured and accused have signed the compromise; No accused is proclaimed in the FIR.."

In compliance with the order dated 09.08.2022, an affidavit dated 12.11.2022 has been filed by respondent No.1, i.e. State, wherein it is mentioned that the the challan against the petitioners Neeraj, Shamsher, Mohit, Rajeev, Sanjay and Kavish was submitted on 18.02.2021. The charges were framed on 13.09.2021. Now, the trial is pending in the Court of JMIC, Gurugram and is fixed for 30.11.2022 for awaiting orders of the High court. There are total 08 Pws in the present case and none has been examined.

A perusal of the said report would show that statements of the

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concerned persons have been recorded in this case, who have stated that the matter has been compromised and respondent No.2 to 4 have no objection in case the FIR in question is quashed. They have further stated that the said compromise is genuine, voluntary, and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that none of the petitioners have been declared as proclaimed offender and learned State counsel has not disputed this fact.

Having heard 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 the case is at the stage of prosecution evidence 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 the 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*

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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

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the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 if 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*

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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-dominatingly 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

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> *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 aforesaid quoted percept has also been followed in ***State of Madhya Pradesh v/s Lakshmi Narayan, (2019)5 SCC 688:-***

> "*12. Now so far as the conflict between the decisions of this Court in the cases of Narinder Singh (supra) and Shambhu Kewat (supra) is concerned, in the case of Shambhu Kewat (supra), this Court has noted the difference between the power of compounding of offences conferred on a court under Section 320 Cr.P.C. and the powers conferred under Section 482 Cr.P.C. for quashing of criminal proceedings by the High Court. In the said decision, this Court further observed that in compounding the offences, the power of a criminal court is circumscribed by the provisions contained in Section*

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320 Cr.P.C. 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 proceedings or criminal complaint under Section 482 Cr.P.C. is guided by the material on record as to whether ends of justice would justify such exercise of power, although ultimate consequence may be acquittal or dismissal of indictment. However, in the subsequent decision in the case of Narinder Singh (supra), the very Bench ultimately concluded in paragraph 29 as under:

"29. xxxxxxx

29.7. While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. xxxxxxxxx"

In view of the report of JMIC, Gurugram, the compromise dated 02.04.2022 and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Therefore, this petition is allowed and FIR No. 341 dated

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02.10.2020 under Sections 147, 149, 323, 452 and 506 IPC registered at Police Station Sector 50, District Gurugram and all the subsequent proceedings emanating therefrom *are hereby quashed*, qua the petitioners.

(*DEEPAK MANCHANDA*)
JUDGE

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Whether speaking/reasoned	***Yes***
Whether Reportable	***Yes /No***

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