

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

Date of Decision: September 28, 2022

1. CRM-M-25862-2021

Dharampal Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

2. CRM-M-25863-2021

Rajinder Singh and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Mahipal Singh Yadav, Advocate,
for the petitioners in CRM-M-25862-2021 &
for respondent No. 2 in CRM-M-25863-2021.

Mr. Sunny K. Singla, Advocate,
for the petitioners in CRM-M-25863-2021 &
for respondent No. 2 in CRM-M-25862-2021.

Mr. Anmol Singh Sandhu, AAG, Punjab.
for respondent-State.

SANJAY VASHISTH, J.

1. This order shall dispose of Criminal Miscellaneous Nos. 25862 and 25863 of 2021, for, the same have emanated out of same occurrence and prayer made therein is for quashing of criminal proceedings on the basis of compromise deed, dated 26.06.2021 and affidavit, dated 26.06.2021, entered into between the affected parties.

2. It is a case of version and cross-version. Petitioners in CRM-25862-2021 are seeking quashing of cross case bearing GD No. 20, dated 05.04.2020, under Sections 341, 323, 506 and 34 IPC, registered at Police Station Sadar, Ahmedgarh, District Sangrur, in FIR No. 49, dated 02.04.2020, under Sections 324, 342, 506, 148 and 149 IPC, Police Station Sadar, Ahmedgarh, District Sangrur, and all subsequent proceedings arising therefrom, whereas petitioners in CRM-25863-2021 are seeking quashing of FIR No. 49, dated 02.04.2020, under Sections 324, 342, 506, 148 and 149 IPC, Police Station Sadar, Ahmedgarh, District Sangrur, and subsequent proceedings arising therefrom.

3. On 13.07.2021, both petitions came up for consideration before co-ordinate Bench of this Court, and vide separate orders of even date private parties were directed to appear before learned Illaqa Magistrate for getting their respective statements recorded with regard to compromise dated 26.06.2021. Order dated 13.07.2021, passed in CRM-M-25862-2021 says as under:-

“ The case has been taken up for hearing through video-conferencing.

Prayer made in this petition is for quashing of cross case as well as all the subsequent proceedings arising therefrom on the basis of compromise.

Notice of motion for 13.10.2021.

At this stage, Mr. Sunny K. Singla, Advocate appears on behalf of respondent No. 2.

In the meanwhile, parties would appear before the Illaqa Magistrate on 23.07.2021 for recording their statements. The concerned Court would file its report in the context of validity and genuineness of the compromise in

question. The Court shall make a report in respect of antecedent behaviour of criminal activity of the accused and also with regard to total number of accused involved in the case and his/their status of being proclaimed offender/person.”

4. In compliance thereof, the affected parties did appear before learned Judicial Magistrate Ist Class, Malerkotla, District Sangrur, on 23.07.2021 and got recorded their respective statements with regard to the compromise. Learned Court below sent its report dated 23.07.2021, vide Memo. No. 277, dated 29.07.2021, alongwith statements of affected parties. Operative part of the said report reads as under:-

“ The Complainant namely Dharampal Singh son of Sh. Harnek Singh r/o village Momnabad has suffered a statement to the effect that FIR No. 49 dated 02.04.2020 under Sections 324, 342, 506, 148, 149 IPC, PS Sadar Ahmedgarh District Sangrur against accused persons has been got lodged by him. Now he has entered into compromise with the accused persons namely Rajinder Singh son of Sukhdev Singh, Kuldeep Singh @ Billu son of Hardeep Singh, Ramandeep kaur daughter of Sukhdev Singh, Kamaljit Kaur wife of Kuldeep Singh, Tara Singh son of Pal Singh all resident of village Momnabad Tehsil Ahmedgarh. Therefore, he does not want to pursue with litigation in respect of the present FIR and other consequential proceedings against the above mentioned accused persons. He has no objection if the FIR and other consequential proceedings are quashed against above named accused persons. He has also no objection if CRM-M-25862 of 2021 for quashing of the present FIR is allowed. Statements of accused persons has been recorded to the effect that they have voluntarily compromised the matter with the complainant namely Dharampal Singh without any pressure or coercion and without any greed. The said compromise is genuine voluntary and without any coercion or undue influence. They have not been declared as proclaimed offender in any case nor they are involved in any other FIR. They have no objection, if the present FIR and other proceedings are quashed against them.

As per FIR five person arrayed as accused but as per order dated 13.07.2021 passed by the Hon'ble High Court in CRM-M-25862 of 2021, accused persons namely Rajinder Singh son of Sukhdev Singh, Kuldeep Singh @ Billu son of Hardeep Singh, Ramandeep Kaur daughter of Sukhdev Singh, Kamaljit Kaur wife of Kuldeep Singh, Tara Singh son of Pal Singh all resident of village Momnabad Tehsil Ahmedgarh Dist. Sangrur have approached for seeking quashing of FIR and other consequential proceedings against them on the basis of compromise. It is pertinent to mention here that the fifth accused is entered as unknown in the present FIR. The said accused persons have been identified by their counsel Sh. Mukesh Kumar, Advocate (Enrollment no.P/1564/2018) on the day of recording their statement regarding compromise i.e. 23.07.2021.

As per statement of accused persons and as per record, they have not been declared as proclaimed offender. Also they are not said to be involved in any other FIR. They also suffered a statement regarding the compromise in DDR No. 20 dated 05.04.2020 U/s 341, 323, 506, 34 IPC PS Sadar Ahmedgarh and they have also no objection if the present DDR N. 20 dated 05.04.2020 and other proceedings are also quashed against them.

From the statements given by both the parties, this court is of the considered view that the compromise is genuine, voluntary and without any coercion or undue influence. From their statements, the under signed is of the opinion that compromise has reached between the parties willfully and without any pressure or coercion. Hence, this report is submitted for kind perusal."

5. Learned counsel for the private parties state that incident in the present case occurred at the spur of moment, on a trivial issue, and on the basis of version and cross version criminal proceedings were initiated against both the sides, who are neighbours and residents of same village. Due to intervention of the respectable and elderly people of the society, the matter has been resolved and private parties have effected a compromise dated 26.06.2021. At present, there remains no dispute

amongst the private parties. Learned counsel further submit that in view of the compromise so effected between the private parties, pendency of the FIR No. 49, dated 02.04.2020, cross case bearing GD No. 20, dated 05.04.2020, and consequential proceedings emanating therefrom would be sheer abuse of the process of law.

6. Learned counsel for the State after going through the statements and the report received from learned Court below, very fairly admits that the private parties have resolved their dispute and effected a compromise. He further submits that he has no objection if criminal proceedings are quashed on the basis of the compromise.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. 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.”

9. The said legal principles were also approved by Hon'ble the Supreme Court in the matter of **Gian Singh v. State of Punjab and another**, (2012) 10 SCC 303. Furthermore, broad principles for exercising the powers under Section 482 were summarized by Hon'ble the Supreme Court in the matter of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another**, (2017) 9 SCC 641.

10. Hon'ble the 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 Hon'ble the 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 extra-ordinary 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.”

11. After hearing learned counsel for the parties and going through the material available on record, this Court finds that there appears to be substance in the submission of learned counsel that pendency of the present criminal litigation would be abuse of process of law since chances of conviction of accused persons are bleak in view of the compromise so effected between the private parties.

12. The report alongwith statements of the affected parties received from learned Court below would reveal that the aggrieved persons have genuinely effected a compromise and they have no objection if the impugned criminal proceedings are quashed.

13. 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)**, these petitions are allowed.

14. Consequently, FIR No. 49, dated 02.04.2020, under Sections 324, 342, 506, 148 and 149 IPC, Police Station Sadar, Ahmedgarh, District Sangrur, as well as cross case bearing GD No. 20, dated 05.04.2020, under Sections 341, 323, 506 and 34 IPC, registered at

Police Station Sadar, Ahmedgarh, District Sangrur, in FIR No. 49, dated 02.04.2020, under Sections 324, 342, 506, 148 and 149 IPC, Police Station Sadar, Ahmedgarh, District Sangrur, and all subsequent proceedings arising therefrom, are hereby quashed in view of compromise, dated 26.06.2021.

15. These petitions stand disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

September 28, 2022

P Kapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**