

223

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

**CRM-M-21249-2019 (O&M)
Date of Decision: 20.12.2022**

CHANDAN KUMAR JHA AND ORS

....Petitioners

Versus

STATE OF PUNJAB AND ANR

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present : Mr. J.S. Rana, Advocate for
Mr. Sandeep Arora, Advocate
for the petitioners.

Mr. Harjinder S. Sidhu, AAG, Punjab.

Mr. G.S. Rawat, Advocate
for respondent No.2.

HARSH BUNGER, J. (Oral)

This petition has been filed for quashing of FIR No.218 dated 04.12.2017, under Sections 323, 324, 326, 148, 149 of Indian Penal Code registered at Police Station Bhargo Camp, Jalandhar (Annexure P-1) and all the consequent proceedings arising therefrom, on the basis of compromise dated 15.07.2018 (Annexure P-2) arrived at between the parties.

Vide order dated 09.05.2019, the Illaqa Magistrate/trial Court was directed to record the statements of the parties with regard to the genuineness and validity of the compromise.

In compliance thereof, the Judicial Magistrate Ist Class, Jalandhar has submitted its report, vide letter dated 30.07.2019 which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As

per the report, the compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. Relevant extract of the said report is reproduced as under:-

“1. As per the statement of Investigating Officer, there are five persons arrayed as accused in the present FIR namely Sonu Jha, Chandan Jha, Sandeep @ Sunny, Meet and Rahul Kumar @ Bhichi and out of above stated five accused one accused namely Rahul Kumar @ Bhichi is juvenile in the present FIR and his separate challan has been presented before the Principal Magistrate, Juvenile Justice Board, Jalandhar.

It is submitted that the CIS System shows that accused Rahul @Bhichi @ Abhi is acquitted in this case by Sh. Raj Pal Rawl. PCS, the then Principal Magistrate, Juvenile Justice Board, Jalandhar vide judgment dated 17.10.2018 and downloaded copy of the judgment dated 17.10.2018 from CIS System is attached with the report.

2. No accused is proclaimed offender in the present FIR

3. In view of statements given by the parties this Court is of the considered opinion that compromise effected between the parties is genuine and it is effected voluntarily without any pressure, coercion or undue influence from any quarter.

4. As per the statement of Investigating Officer one another FIR No.72 dated 27.04.2018, under Section 323, 341, 148, 149 IPC is pending against accused Meet and Rahul Kumar @ Bhichi and challan of the same has already been presented on 29.01.2019.

5. As per the statement of Investigating Officer, there is only one complainant/victim in the present case namely Ashu Matta.”

A perusal of the said report would show that statements of all the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise was entered into voluntarily and without any pressure.

Learned counsel for respondent No.2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the parties.

Learned State counsel does not raise any serious dispute regarding quashing of aforesaid FIR in question.

I have heard the learned counsel for the parties and have perused the file.

In ***Shakuntala Sawhney v. Kaushalya Sawhney, (1979) 3 SCR 639, at P 642***, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

“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 exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences 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 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 personnel 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.”

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.

In the matter of '*Ramgopal And Another Vs State of Madhya Pradesh, 2021 SCC Online SC 834*', the Hon'ble Supreme Court has held 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 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...”

Having appraised the afore-stated parameters and weighing upon the peculiar facts and circumstances of the instant case, this court is inclined to invoke powers under Section 482 Cr.P.C. to quash the criminal proceedings for the following reasons:

- i. One of the accused namely accused Rahul @Bhichi @ Abhi has been acquitted in this case by the Principal Magistrate, Juvenile Justice Board, Jalandhar vide its judgment dated 17.10.2018. Perusal of judgment shows that the injuries attracted under Section 326 IPC were on back and thumb of left hand, which are on non-vital parts. Moreover, the complainant and his father did not gave any evidence in trial of juvenile Rahul @Bhichi @ Abhi and produced copy of compromise before the Juvenile Justice Board.
- ii. The alleged occurrence prima facie appears to be a result of some misunderstanding between the parties resulting in injuries being caused to the complainant.
- iii. The nature of the dispute cannot be said to be shocking to the society at large or as would cause grave public outcry.
- iv. The petitioner does not suffer any criminal antecedents and is not involved in any other case.
- v. The FIR in this case dates back to the year 2017 and there is nothing on record to show that either before or after the purported compromise, any untoward incident transpired between the parties;
- vi. 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;

vii. The complainant is not likely to support the case of the prosecution and continuation of the proceedings is likely to be a waste of judicial time.

viii. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.

ix. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigours of criminal proceedings.

x. Since the Petitioner and the complainant are residents of the same area/town, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.

xi. The cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Petitioner.

For the reasons stated above, the present petition is allowed and the criminal proceedings in the aforesaid case FIR No.218 dated 04.12.2017, under Sections 323, 324, 326, 148, 149 of Indian Penal Code registered at Police Station Bhargo Camp, Jalandhar (Annexure P-1) and all consequential proceedings arising therefrom, are quashed on the basis of compromise dated 15.07.2018 (Annexure P-2) entered into between the parties. However, the same would be subject to payment of costs of

Rs.10,000/- to be deposited by the petitioner with the **“Poor Patients' Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

Disposed of in the aforesaid terms.

All pending application(s), if any, shall stand disposed of.

20.12.2022
Amandeep

(HARSH BUNGER)
JUDGE

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