

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

242

CRM-M-25681-2020(O&M)

Date of Decision:30.03.2022

Balwinder Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

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

Present: Ms. Riffi Birla, Advocate, for the petitioners.

**Ms. A.K. Khurana, D.A.G., Punjab,
for respondent No.1-State.**

**Ms. Pushpinder Kaur, Advocate,
for respondent Nos.2 and 3.**

VINOD S. BHARDWAJ , J.(Oral)

By means of the instant petition, the jurisdiction of this Court under Section 482 Cr.P.C. has been invoked for seeking quashing of FIR No.55 dated 05.05.2017 under Sections 324, 323, 336, 148, 149 of the IPC and Section 27, 54, 59 of the Arms Act, 1959, registered at Police Station Guruharsahai, District Ferozepur(Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 22.07.2020(Annexure P-2) entered between the parties.

2 Vide order dated December 04, 2020 of this Court, the parties were directed to appear before the learned trial Court/Illaq Magistrate 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 1st Class, Ferozepur vide Memo No.57 dated 25.01.2021.

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

“Both complainant and accused parties appeared in the Court of undersigned in compliance of the above said order passed by Honourable High Court. Complainant Gurmej Singh and Kailash Kaur have also suffered their respective statements that they have compromised with accused party in the presence of respectable persons of both the parties. The compromise is voluntarily, without any inducement, threat, pressure or coercion. Now there is no grudge against the accused party. He does not want to take any action against the accused in the present case. This compromise has been taken place with the free consent and without any pressure. He has no objection, if the present FIR against the above mentioned accused be quashed by the Hon'ble High Court of Punjab and Haryana at Chandigarh. Similarly, the accused have suffered statement to the effect that he has compromised with the complainant Gurmej Singh and Kailash Kaur present in the court. They have read over the statements of the complainant and Kailash Kaur, which is true and correct. They and complainant party will remain peacefully in the future as per compromise affected between them. They have compromised with the complainant party without any threat, inducement or any kind of pressure. It is also submitted that accused have not been declared proclaimed offender till date.

Both the complainant and accused have compromised the matter. There is no grudge remain between parties. The compromise is voluntarily, without any pressure or coercion. In order to ensure the veracity of compromise the complainant party and accused party has produced photocopies of affidavit/compromise deed effected between the parties before panchayat. This court is of the considered opinion that the compromise has been affected between the complainants and accused and same is voluntary, without any pressure or coercion and is genuine one. It is further submitted that total

10 accused are involved in the present FIR and their names are (1) Balwinder Singh, aged about 33 years son of Banta Singh, (2) Harbhajan Singh, aged about 33 years son of Jagat Singh, (3) Pappu Singh, aged about 26 years son of Chiman Singh, (4) Resham Singh, aged about 71 years son of Musha Singh, (5) Jiwan Singh, aged about 45 years son of Teja Singh, (6) Om Parkash aged about 41 years son of Jagat Singh, (7) Surjit Singh, aged about 29 years son of Chiman Singh, (8) Subhash Singh @ Bittu, aged about 48 years son of Jagat Singh, (9) Mahinder Singh, aged about 29 years son of Banta Singh, (10) Chiman Singh, aged about 46 years son of Santa Singh, all residents of village Changa Rai Uttar, Tehsil Gurusahai, District Ferozepur. ”

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. Ms. Pushpinder Kaur, Advocate, appears on behalf of respondent Nos.2 and 3 and reiterates the settlement and her 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 been 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 summed 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 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.

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 SCC303**'. 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.

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 chance 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 perusal of the FIR shows that the dispute occurred between the parties as a result of crossing the tractor casually through the land

belonging to the complainant and regarding which there is a dispute pending between the parties. Injury on non-vital parts of the body are the result thereof. It is also apparent that even though offences under Section 336 IPC and Section 27 of the Arms Act had been attracted in the FIR, however, as per the reply furnished by respondent No.1-State of Punjab, the offences under Section 336 IPC and Section 27 of the Arms Act were deleted vide Rapat No.24 dated 26.07.2020. It is also recorded in the said reply that during the course of investigation itself, complainant-Gurmej Singh and injured Kailash Bibi had appeared before the investigating officer and submitted their respective affidavits in support of the compromise reiterating that they do not want to proceed further with the matter. Resultantly, the cancellation report was prepared on 27.07.2020 and was sent to the office of Deputy Superintendent of Police, Sub Division, Guruharsahai. The dispute does not amount to causing mental depravity of the parties as the same is neither heinous nor grievous and is not of the nature that would aggravate public outrage. The continuation of the proceedings is not likely to subserve any larger public interest and its continuation is not likely to advance any interest of justice. The parties have agreed to give a quietus to the dispute. It would rather be expedient and in the interest of peaceful co-existence and harmony amongst the parties if the FIR and also criminal proceedings arising therefrom are quashed. The parties are the residents of the same village and amicable resolution of the dispute is likely to create an atmosphere of peace and harmony in the village rather than aggravate discord. The parties do not suffer from any criminal antecedents and have also not indulged in any further activities since the registration of the FIR.

proceedings are at the initial stage of investigation and filing of the petition cannot be said to be much delayed. In the event of the matter not being quashed and the parties are directed to continue incarceration in the ongoing proceedings, the same is only likely to prompt the parties to devise methods to hoodwink the process of law and in the said proposition, the same cannot be the object of litigation.

11. In view of the report of the Judicial Magistrate 1st Class, Ferozepur 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. The aforesaid FIR No.55 dated 05.05.2017 under Sections 324, 323, 336, 148, 149 of the IPC and Section 27, 54, 59 of the Arms Act, 1959, registered at Police Station Guruharsahai, District Ferozepur(Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise/affidavit dated 22.07.2020(Annexure P-2), are hereby quashed qua the petitioners. However, the same would be subject to payment of ₹25,000/- as costs to be deposited by the petitioners with the “**High Court Lawyers' Welfare Fund**” within a period of one month from the date of receipt of certified copy of this order.

The instant petition is allowed.

March 30, 2022
seema

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No