

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

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Date of decision: 26.07.2022

CRM-M-49513-2017(O&M)

HARJIT ISNGH @ HARDEEP SINGH AND ORS

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CRM-M-4371-2018 (O&M)

PARMINDER SINGH @ PINDER AND ANR

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CRM-M-4374-2018 (O&M)

APRINDER SINGH @ KALA

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CRM-M-49843-2017 (O&M)

HARNEK SINGH @ NEKI AND ORS

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

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

Present : Mr. P.S. Ahluwalia, Advocate
for the petitioners in CRM-M-49513-2017 and CRM-M-4371-2018
and for respondent No.2 in CRM-M-4374-2018
and CRM-M-49843-2017.

Mr. Gaurav Jain, Advocate for
Mr. Vipul Joshi, Advocate
for the petitioners in CRM-M-4374-2018 and CRM-M-49843-2017
and for respondent No.2 in CRM-M-49513-2017
and CRM-M-4371-2018.

Mr. Karanbir Singh, AAG Punjab.

VINOD S. BHARDWAJ. J. (ORAL)

This common order shall dispose of the above-mentioned four

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criminal miscellaneous petitions as the same arise out of version and cross-version case in relation to the same incident.

2. By means of the instant petitions, the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure has been invoked for seeking quashing of FIR as well as the complaint as are tabulated hereinbelow and all other consequential proceedings arising therefrom, on the basis of compromise dated 11.11.2017 entered between the parties.

Case Number	FIR Number/Complaint number
CRM-M-49513-2017	FIR No.166 dated 17.08.2009 under Sections 307, 324, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sadar Phagwara.
CRM-M-4371-2018	FIR No.166 dated 17.08.2009 under Sections 307, 324, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sadar Phagwara.
CRM-M-4374-2018	Complaint Case No.37A dated 05.11.2009 under Sections 307, 326, 323, 324, 506, 148 and 149 of the Indian Penal Code, 1860 and summoning order dated 06.08.2013.
CRM-M-49843-2017	Complaint Case No.37A dated 05.11.2009 under Sections 307, 326, 323, 324, 506, 148 and 149 of the Indian Penal Code, 1860 and summoning order dated 06.08.2013.

3. The parties were directed to appear before the learned trial Court/Illaq Magistrate vide orders dated 01.08.2018 and 02.11.2018 of this Court passed in the respective petitions to get their statements recorded regarding the compromise arrived at between the parties and a report in this regard was called for.

4. Pursuant to the said order, report has been received from the Judicial Magistrate First Class, Phagwara vide Memo No.662 dated 07.01.2019 in CRM-M-4371-2018 . The relevant extract of the report is reproduced as under:-

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“On 20.12.2018, in compliance of the above said order, statement of complainant namely Parminder Singh @ Pinder and accused Ravinderjit Singh have been recorded.

The statements have been got recorded by the parties voluntarily and without any pressure from any quarter and the compromise so effected is genuine, voluntary and without any coercion or threat. Hence, this report is hereby submitted for your Honour's kind perusal, please.”

Similarly, report has been received from the Judicial Magistrate First Class, Phagwara vide Memo No.664 dated 07.01.2019 in CRM-M-4374-2018. The relevant extract of the report is reproduced as under:-

“On 20.12.2018, in compliance of the above said order, statement of complainant namely Aprinder Singh @ Kala and accused Harjit Singh have been recorded.

The statements have been got recorded by the parties voluntarily and without any pressure from any quarter and the compromise so effected is genuine, voluntary and without any coercion or threat.”

Insofar as CRM-M-49843-2017 and CRM-M-49513-2017, it has been reiterated by the Judicial Magistrate First Class, Phagwara in its report vide memo No.878 dated 18.10.2018 that the parties have entered into a settlement. The relevant extract of the same read thus:-

“It is further submitted that in compliance of the abovesaid order dated 1.8.2018, passed by the Hon'ble Punjab & Haryana High Court, this Court being Illaqa Magistrate/Successor Court of Ms.Damandeep Kamal Heera, Ld.JMIC, Phagwara, issued notices to the concerned parties. On 11.10.2018, petitioners

namely Harnek Singh @ Neki, Balwinder Singh @ Binda, Ravinderjit Singh, Sukhjinder Singh @ Shama, Kulwant Singh @ Sodhi and Tirath Singh as well as respondent namely Harjit Singh @ Hardeep Singh appeared before the Court of undersigned. The above named petitioners suffered a statement that they all and Gurdeep Singh s/o Mangal Singh got their statements recorded in the Court of Sh.Muneesh Arora, Ld. Addl.Sessions Judge. Kapurthala as per order dated 1.8.2018, passed by the Hon'ble Punjab & Haryana High Court and they also placed on record photocopies of their identity cards. The aboved named petitioners have been identified by Sh.H.P.S.Narula Advocate. Respondent Harjit Singh alias Hardeep Singh suffered a statement that he got his statement recorded in the Court of Sh.Muneesh Arora, Ld. Addl.Sessions Judge, Kapurthala as per order dated 1.8.2018, passed by the Hon'ble Punjab & Haryana High Court and he also placed on record photocopy of his identity proof.”

5. Learned counsel for the petitioners contend that in even though the offence under Section 307 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') has been incorporated, however, as per the medical report, there is no injury that would attract Section 307 IPC. He has placed reliance upon the injuries sustained by the injured witness and to contend that only grievous injuries were reported. Even otherwise, as per the deposition of PW-9 there are a total of 04 injuries that are stated which are on dorsal aspect of right forearm, lateral aspect of elbow joint, unlar side of forearm, and dorsal aspect of left forearm . The said injuries would not fall in the definition of injuries which would attract the ingredients of offence under Section 307 IPC.

6. Today, on resumed hearing, counsel for the parties have

appeared and reiterated the factum of compromise amongst them and have no objection in the event the proceedings arising therefrom on account of the FIR as well as the complaint case so instituted against the parties are quashed.

7. 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.

8. 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 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.

9. 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'.

10. 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.

11. 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 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.

12. 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. This is a case related to version and cross-version and that the FIR and complaint case have been registered emanating from the same incident;
- ii. The dispute is arising out of a scuffle between the parties resulting in injuries being caused to the injured party. The injuries are on the non-vital parts of the body of the injured party;
- iii. That the incident in question is of the year 2009 and the parties have suffered the agony of criminal proceedings for a period of 13 years;
- iv. The parties are residents of the same village and continuation of the proceedings is likely to spoil the peaceful atmosphere of the village.
- v. In CRM-M-49513-2017 the petitioners are in their forties; in CRM-M-4371-2018 the petitioners are in their thirties; in CRM-M-4374-2018 the petitioner

is 35 years of age and in CRM-M-49843-2017 the petitioner Nos.1, 2, 6 are in their fifties and petitioner Nos.3, 4 and 5 are in their forties and petitioner No.7 is in his thirties and continuation of criminal proceedings will cause severe repercussions to the petitioners in discharge of their social obligations as well as in their work place;

- vi. 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;
- vii. Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to sub-serve any large public interest;
- viii. 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;
- ix. No larger public purpose would be served by continuation of the proceedings;
- x. 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.
- xi. The object of law is well served when the parties resolve their differences and choose to peacefully co-exist and live in harmony.

13. In view of the report of the Judicial Magistrate First Class, Phagwara 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

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Court in *Kulwinder Singh and others Vs. State of Punjab and another, 2007(3)*

RCR (Criminal) 1052, the instant petitions are allowed. The aforesaid FIR No.166 dated 17.08.2009 under Sections 307, 324, 506, 148 and 149 of the Indian Penal Code, 1860 registered at Police Station Sadar Phagara and Complaint Case No.37A dated 05.11.2009 under Sections 307, 326, 323, 324, 506, 148 and 149 of the Indian Penal Code, 1860 and summoning order dated 06.08.2013, **are hereby quashed** qua the petitioners in view of compromise dated 11.11.2017.

14. However, the same would be subject to payment of costs of Rs.10,000/-each to be deposited by the petitioners in CRM-M-49513-2017 and CRM-M-4371-2018 with the **High Court Bar Association Environment Protection Fund, Chandigarh** and payment of costs of Rs.10,000/-each to be deposited by the petitioners in CRM-M-4374-2018 and CRM-M-49843-2017 with the **High Court Lawyers Welfare Fund Chandigarh** within one month from receipt of certified copy of this order.

Petitions are allowed.

(VINOD S. BHARDWAJ)
JUDGE

July 26, 2022

S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No