

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

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CRM-M-24980-2019 (O&M)

Date of Decision: 10.02.2022

ONKAR VERMA

....Petitioner

Versus

STATE OF HARYANA AND ORS.

....Respondents

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

Present: Mr. Rajan Bhargava, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J.(Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

CRM-3274-2022

The instant application has been filed on behalf of the petitioner seeking early hearing in the case which was listed on 14.02.2022 and is now fixed for 28.09.2022.

Learned counsel for the petitioner *inter alia* contends that the dispute already stands resolved and that the statements of the parties have also been recorded. No useful purpose will be served by keeping the matter pending.

Mr. Vishal Aggarwal, Advocate appears on behalf of respondent No. 2 and acknowledges the existence of the compromise as well statement made by the said respondent before the Illaqa Magistrate. He has no objection if the matter is pre-poned.

Mr. Ashish Yadav, Additional A.G. Haryana appears on behalf of respondent No.-1-State and has no objection if the matter is pre-poned for an early date.

The report from the Illaqa Magistrate already stands received.

In view of no objection from all the parties, the instant application is allowed, the CRM-M-24980-2019 is taken on board for hearing today itself.

CRM-M-24980-2019

The instant petition for seeking quashing of FIR No.562 dated 28.11.2018 under Sections 279, 337 and 506 IPC registered at Police Station Amabala Cantt, Ambala and all other consequential proceedings arising therefrom, on the basis of compromise dated 15.03.2019 arrived at between petitioner and respondents No.2.

2. Learned counsel for the petitioner *inter alia* contends that the matter already stands amicably resolved amongst the parties and a settlement Annexure P-2 dated 15.03.2019 was executed amongst the parties with the intervention of the respectables from both the side. It is further submitted that the foundation of the dispute is on account of a matrimonial discord amongst the parties and due to incompatibility of temperaments, the parties could not reside together as husband and wife thereby resulting in filing of litigation amongst them. It is further stated that the matter stands settled and the parties have decide to withdraw the case that have been instituted by them against each other.

3. The matter had come up for hearing on 29.05.2019 when a co-ordinate Bench of this Court had directed the parties to appear before the Illaqa Magistrate on 31.05.2019 to get their statements recorded in reference to the compromise entered into between them. A further direction was issued to the Illaqa Magistrate to submit a report

in relation to the said compromise.

4. Vide letter No.124 dated 14.06.2019, a report has been received from Additional Chief Judicial magistrate, Ambala which reads as under:

“In this connection, it is respectfully submitted that the complainant Sakshi Parmar D/o Rajinder Kumar and accused Onkar Verma duly identified by their counsel appeared before the Court of undersigned on 31.05.2019 and got their statements recorded. Complainant Sakshi Parmar has made statement that she is the complainant in the present case and she has compromised the matter with accused. The compromise has been effected without any pressure and at my own freewill. Besides, this she has also got registered a case under Section 406, 420, 120-B of IPC vide FIR No. 105 dated 08.03.2019 in P.S. Baldev Nagar against accused Onkar and his family members and in which she is also complainant. Vide this compromise, she has also compromised the dispute in the other FIR. She does not want to pursue the present FIR. In this FIR only Onkar is accused. She also placed on record compromise Ex.C1. She has been duly identified by her counsel. Similarly, accused Onkar Verma has also made a statement that he has compromised the matter with the complainant. Besides this case, one another case bearing FIR No. 105 dated 08.03.2019 under Section 420, 406, 120-B IPC, P.S. Baldev Nagar is pending against him and his family members on which Sakshi Parmar is the complainant and the said case has also been compromised between the parties. He is not a Proclaimed Offender in this case. Besides the above said two cases, no other case is pending against him. He has compromised the matter at his own free will and without any pressure. He has been duly identified by his counsel.

In view of the above, it is respectfully submitted that the matter has been compromised between the parties with their free will & consent and without any pressure or coercion on either side as per the aforesaid statements and the statements of the parties are bonafide. The compromise effected between the parties is genuine and valid. There is one complainant and one accused as per statements of the parties. Besides, the present FIR, one another FIR No. 105 dated 08.03.2019 under Section 420, 406, 120-B IPC, P.S. Baldev Nagar has been registered against the accused and his family members on the statement of the present complainant. As per statement of the accused he has not been declared proclaimed offender in the present case nor in any other case. The accused is not a previous convict.

5. The compromise amongst the parties is thus reported to have been free & voluntary.

6. Learned State counsel as well as the learned counsel appearing on behalf of the respondent No.2-complainant have not disputed the factum of compromise between the parties today as well.

7. 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:

“(27) Shri R.S. Cheema, learned Senior Advocate, who assisted the Bench as Amicus Curiae, highlighted the inadequacies of the criminal justice system in order to propound and promote the principle that under Section 482 of the Cr.P.C., the High Court can effectively exercise its power in an appropriate case and intervene to quash an F.I.R. even when the case discloses a non-

compoundable offence and where the parties have voluntarily entered into a compromise. To illustrate, he submitted that the Legislature, in its wisdom, is seeking to introduce a pre-bargaining in the country and in this scenario, to curtail the power under Section 482 by reading into the provisions of law the non-existing lines would, indeed, be a travesty of justice, especially in view of the fact that there is a wide spread tendency in the society now to use the arm of criminal law to settle civil disputes and he reiterated certain contingencies which were also placed before the Bench during the course of hearing in Dharambir's case (supra). Some of the guidelines were as follows:

- a. Cases arising from matrimonial discord, even if other offences are introduced for aggravation of the case.*
- b. Cases pertaining to property disputes between close relations, which are predominantly civil in nature and they have a genuine or belaboured dimension of criminal liability. Notwithstanding a touch of criminal liability, the settlement would bring lasting peace and harmony to larger number of people.*
- c. Cases of dispute between old partners or business concerns with dealings over a long period which are predominantly civil and are given or acquire a criminal dimension but the parties are essentially seeking a redressal of their financial or commercial claim.*
- d. Minor offences as under Section 279 IPC may be permitted to be compounded on the basis of legitimate settlement between the parties. Yet another offence which remains non-compoundable is Section 506(II) IPC, which is punishable with 7 years imprisonment. It is the judicial experience that an offence under Section 506 IPC in most cases is*

based on the oral declaration with different shades of intention. Another set of offences, which ought to be liberally compounded, are Sections 147 and 148 IPC, more particularly where other offences are compoundable. It may be added here that the State of Madhya Pradesh vide M.P. Act No. 17 of 1999 (Section 3) has made Sections 506(II) IPC, 147 IPC and 148 IPC compoundable offences by amending the schedule under Section 320 Cr.P.C.

e. The offences against human body other than murder and culpable homicide where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category. Offences committed by Public Servants purporting to act in that capacity as also offences against public servant while the victims are acting in the discharge of their duty must remain non-compoundable. Offences against the State enshrined in Chapter-VII (relating to army, navy and air force) must remain non-compoundable.

f. That as a broad guideline the offences against human body other than murder and culpable homicide may be permitted to be compounded when the court is in the position to record a finding that the settlement between the parties is voluntary and fair.

While parting with this part, it appears necessary to add that the settlement or compromise must satisfy the conscience of the court. The settlement must be just and fair besides being free from the undue pressure, the court must examine the cases of weaker and vulnerable victims with necessary caution."

(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 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.

8. 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**. 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.

9. Considering the facts of the instant case and noticing that the dispute involved in the instant case pertains to offence under Section 279, 337 and 506 IPC and the said offences cannot be perceived as falling within the prohibited category or as heinous and grossly shocking to the conscience of the Court or having a wide pervasive impact on the social or public order. The instant petition is hence allowed and case FIR No. 562 dated 28.11.2018 under Sections 279, 337 and 506 IPC registered at Police Station Ambala Cantt, Ambala and all other subsequent proceedings arising therefrom are hereby quashed, in view of the compromise dated 15.03.2019.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

FEBRUARY 10, 2022

Vishal sharma

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