

214

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-4312-2016

Date of Decision: 07.11.2022

HARISH KUMAR

..... Petitioner

Versus

HARMEET SINGH

..... Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: None.

JAGMOHAN BANSAL, J. (Oral)

This petition is filed under Section 401 Cr.P.C. for setting aside judgment and order dated 22.01.2016 passed by the learned SDJM, Jalalabad and upheld by learned Additional Sessions Judge, Fazilka vide order dated 25.07.2016 passed in Criminal Appeal No.34.

The contesting parties compromised the matter vide settlement-deed dated 02.08.2022. The matter was referred to Mediation and Conciliation Centre of this Court and as per report dated 02.08.2022 of Mediator, both the parties have settled their disputes by way of settlement. Both the parties were present before Mediation and Conciliation Center of this Court as noted in order dated 02.08.2022 of the Mediator.

The relevant extracts of the order dated 02.08.2022 of the Mediator are as below:

“ Both the parties have settled their dispute by way of settlement, which is enclosed with the file. As such, the case be sent back to the Hon'ble High Court for further adjudication.”

Relying upon its earlier judgments a two Judge Bench of the

Hon'ble Supreme Court in '**Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC online SC 834**' while dealing with power of High Court under Section 482 of Cr.P.C. to quash non-compoundable offences on the basis of compromise between the disputing parties has held:

“11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under [Section 320 Cr.P.C.](#) Any such attempt by the court would amount to alteration, addition and modification of [Section 320 Cr.P.C.](#), which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of [Section 320 Cr.P.C.](#), which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of [Section 320 Cr.P.C.](#) is not an embargo against invoking inherent powers by the High Court vested in it under [Section 482 Cr.P.C.](#) The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press [Section 482 Cr.P.C.](#) in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under [Section 482 Cr.P.C.](#), even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter

adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

*13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under [Section 482 Cr.P.C.](#) would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under [Section 482 Cr.P.C.](#) may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in [Narinder Singh & Ors. vs. State of Punjab & Ors.](#)³ and *Laxmi Narayan (Supra)*.*

14. In other words, grave or serious offences or

offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public policy, cannot be construed betwixt two individuals or groups only, for such offences have the potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a 'settlement' through duress, threats, social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided."

The matter can be compromised at appellate/revision stage apart from at initial stage. In the case in hand, the parties during the pendency of the revision petition before this Court, have settled their disputes. In view of settlement arrived at between the contesting parties and report of Mediator, the present revision petition deserves to be allowed and accordingly allowed.

The judgment and order dated 22.01.2016 passed by the learned SDJM, Jalalabad and upheld by learned Additional Sessions Judge, Fazilka vide order dated 25.07.2016 passed in Criminal Appeal No.34 are hereby quashed.

(JAGMOHAN BANSAL)
JUDGE

04.11.2022
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>