

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

241

CRM-M-36658-2021

Date of Decision : 21.11.2022

Sher Singh and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Karanvir Singh, Advocate for
Mr. G.S.Salana, Advocate
for the petitioners.

Mr. Amish Sharma, Asstt. A.G., Punjab.

Mr. F.S.Virk, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing of Complaint No.12 dated 08.10.2015, under Sections 463, 465, 467, 468, 470, 471, 477, 120-B of IPC, pending in the Court of JMIC, Khanna, District Ludhiana (Annexure P-1), and all the subsequent proceedings arising therefrom, on the basis of compromise-deed/affidavit dated 23.07.2021 (Annexure P-4).

In terms of order dated 06.09.2021, learned JMIC, Khanna has submitted his report dated 23.11.2021. The relevant extracts of the report are as below :-

“(1) Three accused persons were arrayed in the present case namely (1) Sher Singh son of Shri Harman Singh, accused (2) Harchand Singh Nambardar son of Shri Mall

Singh, both residents of Village Rurki, Tehsil Amloh, District Fatehgarh Sahib, and accused (3) Gurdeep Singh son of Budh Singh, resident of Village Kaddon, Tehsil Payal, District Ludhiana, now resident of Village Majri Rasutra, Tehsil Khanna, District Ludhiana, and all of them are appearing in the proceedings of the present case and all of them are present today in the Court and are suffering the statement before this Court and as per record of the case, none of the accused person is absconding / proclaimed offender in this case.

(2) Jaswant Kaur is the only complainant/aggrieved person and today her statement has been recorded in the Court.

(3) The record of the present case reveals that the trial is almost concluded in the present case and the present case is now pending before this Court at the stage of final arguments on merits.

(4) The statements of parties indicates that the parties are close relatives of each other and they have stated that they have voluntarily without any pressure or coercion or influence, and out of their free will and consent have entered into compromise between themselves. Statements of parties appear to be genuine and there is nothing on the record to suspect the compromise between the parties and compromise appears to be result of voluntarily act of the parties and appears to be genuine and true.

(5) The jurisdiction of the present complaint falls within the area of Police Station Sadar, Khanna, hence with regard to the pendency of any other criminal case qua accused persons arrayed in this complaint, report from concerned police station Sadar, Khanna was called and today HC Paramjit Singh No.446/Khanna posted at Police Station Sadar Khanna, has appeared and his

statement was recorded to the effect that in the present complaint bearing No. 12 dated 08.10.2015 registered under Sections 463, 465, 467, 468, 470, 471, 477, 120-B of Indian Penal Code titled as 'Jaswant Kaur Vs. Sher Singh etc" only three persons are arrayed as accused namely (1) Sher Singh son of Shri Harman Singh, accused (2) Harchand Singh Nambardar son of Shri Mall Singh, both residents of Village Rurki, Tehsil Amlloh, District Fatehgarh Sahib, and accused (3) Gurdeep Singh son of Budh Singh, resident of Village Kaddon, Tehsil Payal, District Ludhiana, now resident of Village Mairi Rasutra, Tehsil Khanna, District Ludhiana, and there is only one complainant namely Jaswant Kaur, and there is no other criminal case, pending against these aforesaid three accused persons."

Learned State counsel submits that he has no objection if the present FIR and consequential proceedings are quashed.

Relying upon its earlier judgments in 'Gian Singh Vs. State of Punjab and others, (2012) 10 SCC 303' and 'The State of Madhya Pradesh Vs. Laxmi Narayan and others (2019) 5 SCC 688', 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."

From the perusal of the enclosed FIR, report of the Trial Court and compromise arrived between the parties, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The alleged offences are of pre-dominantly private in nature and no moral turpitude or interest of public at large is involved. There appears to be no chance of conviction, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly is allowed. Complaint No.12 dated 08.10.2015, under Sections 463, 465, 467, 468, 470, 471, 477, 120-B of IPC, pending in the Court of JMIC, Khanna, District Ludhiana (Annexure P-1) and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

21.11.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>