

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

279

**CRM-M-36205-2021
Date of decision: 21.07.2022**

JOGA SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

....Respondents

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

Present: Mr. Naveen Batra, Advocate
for the petitioner.

Mr. Karanbir Singh, AAG, Punjab.

Mr. Pankaj Mohan Kansal, Advocate
for respondents No.2 and 3.

VINOD S. BHARDWAJ. J.(Oral)

1. By means of the instant petition, the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as “Cr.P.C.”) has been invoked for seeking quashing of FIR No. 136 dated 10.09.2016 under Sections 409 and 420 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) registered at Police Station City, Nawanshahr, District Nawanshahr (Annexure P-1) and all other consequential proceedings arising therefrom, on the basis of compromise dated 18.08.2021 (Annexure P-3) entered between the parties and also to set the aside the judgment of

conviction and quantum of sentence dated 07.02.2020 (Annexure P-2) passed by the Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar. The appeal against the aforesaid judgment of conviction is still pending in the Court of Additional Sessions Judge, Shaheed Bhagat Singh Nagar.

2. The parties were directed to appear before the learned trial Court/Illaq Magistrate vide orders dated 17.02.2022 and 31.03.2022 of this Court, 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 Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar vide Memo No. 349 dated 21.04.2022. The relevant extract of the report is reproduced as under:-

“ (i) Only one accused namely Joga Singh has been arraigned as accused in the FIR.

(ii) No accused was declared as proclaimed offender.

(iii) The case against accused Joga Singh has already been decided by the trial Court, vide judgment dated 07.02.2020, whereby the accused has been convicted. The appeal preferred against the said judgment is pending before the Court of learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar.

(iv) The compromise is genuine, voluntary and without any coercion or undue influence, as is apparent from the statements of the parties suffered before this Court.”

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. Mr. Pankaj Mohan Kansal, Advocate appears on behalf of

respondents No. 2 and 3 and reiterates the settlement and his concurrence to the FIR and all the other consequential proceedings being quashed.

6. While dealing with a petition under Section 482 Cr.P.C. for an offence under Section 409 IPC in the matter of **“Madan Mohan Abbot versus State of Punjab”** passed in **Civil Appeal No.555 of 2008** dated 26.03.2008, the Hon’ble Supreme Court held as under:

“4. We have heard the learned counsel for the parties. Concededly a compromise deed has been executed between the parties on 25th January 2002 in which it has been inter-alia recorded as under:

"Whereas for the past some time some dispute had arisen in between both the parties regarding which first party has got an FIR No.155/2001 registered under [Sections 379/406/409/418/34](#) of IPC in P.S. Kotwali Amritsar. After the registration of aforesaid criminal case a compromise has been arrived at in between both the parties. As a result of which both the parties have resolved their differences once for all. Now second party does not owe anything to the first party and first party has undertaken to cooperate with second party in every manner to get the aforesaid FIR cancelled/quashed from appropriate Forum. Further more first party has no objection if the Bail of second party be accepted. Rather first party shall cooperate with second party in every manner to secure bail for him. In view of the compromise arrived at in between the parties entire differences and tensions those had arisen in between both the parties stands resolved and both the parties have undertaken not to file any proceedings either civil or criminal or any other such like proceedings against one another in any court of law at Amritsar or any other place within or outside India. This

compromise is hereby executed in between both the parties in the presence of marginal witnesses on this 25th day of January 2002 at Amritsar."

5. *It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be ruled out. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law. We see from the impugned order that the learned Judge has confused a compounding of an offence with the quashing of proceedings. The outer limit of Rs.250/- which has led to the dismissal of the application is an irrelevant factor in the later case. We accordingly allow the appeal and in the peculiar facts of the case, direct that FIR No.155 dated 17th November 2001 P.S. Kotwali,*

Amritsar and all proceedings connected therewith shall be deemed to be quashed.”

7. Further, in its judgment dated 19.12.1996, passed in **Criminal Misc. No. 7533-M of 1996** titled as **“Mohinder Kumar versus State of Punjab”**, this Court had held as under:

“9. It cannot be disputed that the High Court has inherent powers to pass orders under the code to secure the ends of justice. Hence, if it comes to the knowledge of the High Court that in recording the compromise of the case, ends of justice would be secured, it is essential to pass such orders. It may be further noted that even otherwise, not to allow compromise may also result in such circumstances leading to the same result because the complainant in that case would not support the prosecution story, and the Court instead of advancing the cause of justice, would encourage perjury and if that is not done at trial, evil thoughts will again start in the minds of the parties for having another innings of battle.”

Xx xx xx xx xx

Xx xx xx xx xx

11. *In the present case, the parties have entered into a compromise vide deed dated 15.04.1996 (Annexure P-2). No useful purpose would be served if the investigation of the F.I.Rs.in question is allowed to be carried on or charge-sheet is allowed to be filed or if the petitioner/petitioners are required to face the trial inasmuch as the complainant would not support the prosecution in view of the compromise (Annexure P-2). In these circumstances further proceedings in the F.I.Rs would be an exercise in futility which ought to be avoided.*

12. *As a result of the above discussion, I accept both these petitions and hereby quash both the impugned F.I.Rs bearing No.8 dated 23.01.1995 registered at Police Station Division No.6, Ludhiana for offences under Sections 406/409 Indian Penal Code and F.I.R. No. 241 dated 25.12.1994 registered at Police Station Kotwali, Barnala for the offences*

under Sections 420/506 Indian Penal Code and all the consequent and subsequent proceedings arising therefrom.”

8. The FIR registered under Section 409 IPC was also quashed by this Court vide judgment dated 12.11.2013 passed in **Criminal Misc. No.M-32337 of 2013** titled as **“Nand Kishore Sharma versus State of Punjab and others,** wherein it was observed as under:

“Hon'ble the Supreme Court in the case of B.S.Joshi and others v. State of Haryana and anr., reported as 2003 (2) RCR (Criminal) 888, in para 6 and 11, held as under:-

“6. In Pepsi Food Ltd. & Anr. v. Special Judicial Magistrate & Ors., 1997 (4) R.C.R. (Criminal) 761: (1998) 5 SCC 749, this Court with reference to Bhajan Lal's case observed that the guidelines laid therein as to where the court will exercise jurisdiction under Section 482 of the Code could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution which invoking such powers.

11. In Madhavrao Jiwajirao Scindia & Ors. vs. Sambhajirao Chandrojirao Angre & Ors., 1988 (1) R.C.R. (Criminal) 565 : (1988) 1 SCC 692, it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any special features which appears in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to

continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.”

Since the dispute between the parties has been settled by way of compromise. The complainant-bank has no grouse against the petitioner as earnest money has been deposited with the bank and the respondent-bank is satisfied and does not want to proceed with the case against the petitioner and hence has no objection in quashing of FIR.

Accordingly, the present petition is allowed and impugned criminal proceedings arising out of FIR No. 146 dated 31.08.2012 registered at Police Station Matour, District SAS Nagar Mohali for offence punishable under Section 409 IPC and all subsequent proceedings arising therefrom qua the petitioner namely Nand Kishore Sharma are hereby quashed.”

9. Again, in the matter of **“Divya Malhotra and others versus State of Haryana and others”** passed in **CRM-M-No.33565-2020** dated 24.03.2021, the FIR was quashed and it was observed as under:

“The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 185 dated 29.08.2020 under Sections 406, 420, 120-B IPC (Section 409 IPC added later on) registered at Police Station Bilaspur, district Yamuna Nagar on the basis of a compromise dated 08.09.2020 (Annexure P-2) entered into between the parties.”

In view of the above, continuation of the proceedings in pursuance of the afore-referred FIR in which the offences are compoundable and where the trial is at the initial stage and also the matter having been compromised, would be an

abuse of the process of law and in terms of the law laid down by the Full Bench of this Court in Kulwinder Singh and others Vs. State of Punjab and others, 2007 (3) RCR (Criminal) 1052, this Court deems it just and proper to allow the petition and resultantly quash FIR No. 185 dated 29.08.2020 under Sections 406, 420, 120-B IPC (Section 409 IPC added later on) registered at Police Station Bilaspur, district Yamuna Nagar and all proceedings arising therefrom qua the petitioners.”

10. 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 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.

11. 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'**.

12. The petitioner stands convicted vide judgment dated 07.02.2020 passed by the Court of Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar and had been sentenced as under :

Sr. No.	Name of the accused	Under Section	Sentence Awarded
1.	Joga Singh	409 IPC	To undergo RI for a period of

			two years and to pay fine of Rs. 3000/-. In default of payment of fine, he shall further undergo RI for a period of one month.
		420 IPC	To undergo RI for a period of one year and to pay fine of Rs. 2000/-. In default of payment of fine, he shall further undergo RI for a period of 15 days.

13. 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.

20. *Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that: Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature; Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest; Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed; Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s); Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties; Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between*

the parties and/or resultant acquittal of the Appellants; more so looking at their present age.

14. A perusal of the aforesaid judgment would establish that the extra ordinary power enjoined upon a High Court under Section 482 Cr.P.C can be invoked beyond the contours of Section 320 CrPC. It further establishes that criminal proceedings involving non-heinous offences can be annulled irrespective of the fact that the trial has already been concluded and the compromise is struck post conviction and during pendency of consequential proceedings. The jurisdiction under Section 482 CrPC has to be exercised with rectitude considering the circumstances of the case with an object to secure ends of justice. In the matter of **Bhagel Singh Vs. State Punjab 2014 (3) RCR (Criminal) 578**, where an accused had been convicted for offence under Section 326 IPC and was sentenced to undergo rigorous imprisonment for 2 years, the parties entered into compromise during pendency of the appeal, this Court, while placing reliance upon the precedent judgments of **Lal Chand Vs. State of Haryana. 2009 (5) RCR (Criminal) 838** and **Chhota Singh Vs. State of Punjab 1997(2) RCR (Criminal) 392** allowed the compounding of offence in respect of Section 326 IPC at the appellate stage with the observation that the same would be a starting point in maintaining peace amongst the parties. Furthermore in a judgment dated 09.03.2017, passed in **CRR No.390 of 2017** titled as **Kuldeep Singh Vs. Vijay Kumar and another**, this Court has held as under:-

*'Reliance can be placed on **Kaushalya Devi Massand Vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298** and **Damodar S. Prabhu Vs. Sayed Babalal, AIR 2010 (SC) 1097**, The revisional jurisdiction of the High Court in terms*

of Section 401 CrPC.,1973 would result in bringing about ends of justice between the parties in the event of finding that the compromise is genuine, bonafide and free from any undue influence.

The compromise in question would serve as an everlasting tool in favour of the parties for which indulgence can be given by this Court. The revisional exercise would also be in consonance with the spirit of section 147 of Negotiable Instruments Act.

*The principles laid down in **Damodar S. Prabhu Vs. Sayed Babalal, AIR 2010 (SC) 1097** would be squarely fortified if the compromise in question is allowed to be effected between the parties with leave of the Court.*

In view of the aforesaid, impugned judgment dated 19.01.2017 passed by Additional Sessions Judge, Sri Muktsar Sahib vide which conviction and sentence of the petitioner was upheld stands quashed.

The revision petition is allowed subject to deposit of 15% of the cheque amount as per ratio laid down in Damodar S. Prabhu's case (supra) to State Legal Services Authority, failing which this order will be of no consequence. Necessary consequences to follow.'

15. The aforesaid principle has further been followed by a co-ordinate Bench of this Court in the matter of **Ankush Tiwari And Others Vs. State of Punjab and Another reported as 2022(1) RCR (Criminal) 379.**

16. Thus, it is clear from a perusal of the afore-stated precedent judgments that once the power to quash the proceedings in view of compromise has been held to be vested in the Court in a pending trial,

such power would by necessary implication be also available with the High Court in a pending appeal.

17. 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 Cr.P.C.:-

- i) The FIR was registered due to a monetary dispute between the parties arising out of withdrawal of money.
- ii) The petitioner is nearly 50 years of age 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.
- iii) The FIR was registered in the year 2016 and the petitioner has undergone the rigors of a criminal trial for a period of 06 years.
- iv) The parties are residents of the same village and continuation of criminal proceedings is likely to spoil the peaceful atmosphere of the village.
- v) 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;
- vi) Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to subserve any large public interest;

- vii) The proceedings are likely to end in futility for want of parties to support the case of the prosecution;
- viii) No larger public purpose would be served by continuation of the proceedings;
- ix) 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.
- x) 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 object of law is well served when the parties resolve their differences and choose to peacefully co-exist and live in harmony.

18. In view of the report of the Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar 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. 136 dated 10.09.2016 under Sections 409 and 420 of the IPC registered at Police Station City, Nawanshahr, District Nawanshahr (Annexure P-1) and all other consequential proceedings arising therefrom **is hereby quashed** qua the petitioner on the basis of compromise dated 18.08.2021 (Annexure P-3) entered between the parties and the judgment of conviction and quantum of sentence dated 07.02.2020 (Annexure P-2)

passed by the Chief Judicial Magistrate, Shaheed Bhagat Singh Nagar is

set aside. However, the same would be subject to payment of costs of **Rs.10,000/-** to be deposited by the petitioner with the “**High Court Bar Association Environment Protection Fund**”, within one month from receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

JULY 21, 2022
Vishal Sharma

Whether speaking/reasoned:	Yes/No
Whether Reportable :	Yes/No