

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

263

**CRM-M-32315-2019 (O&M)
Date of Decision: 05.07.2022**

RAJINDER KUMAR @ GIANI

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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

Present: Mr. Rajeev Dev Sharma, Advocate
for the petitioner.

Ms. Amarjit Kaur Khurana, DAG, Punjab.

Mr. Joginder Siwach, Advocate
for respondent No.2.

VINOD S. BHARDWAJ, J. (ORAL)

By means of the instant petition, the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure, 1973 has been invoked for seeking quashing of FIR No.29 dated 12.06.2017 under Sections 279 (Now deleted) 338 and 287 of the Indian Penal Code, 1860 registered at Police Station Sadar Pathankot, District Pathankot and all other consequential proceedings arising therefrom, on the basis of compromise dated 11.07.2019 (Annexure P-2) entered into between the parties.

2 The parties were directed to appear before the learned trial Court/Illaq Magistrate vide order dated 26.08.2019 passed by 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 Judicial Magistrate Ist Class, Pathankot vide Memo No.1047 dated 02.09.2019.

The relevant extract of the report is reproduced as under:-

“1. Whether there is any other person involved in the occurrence

As per FIR No.29 dated 12.06.2017 under Sections 279, 338 IPC registered with PS Sadar, District Pathankot and verbal statement of injured, following person(s) is/are involved in the occurrence.

*(a) **Rajinder Kumar @ Giani aged 35 years son of Nagar Mal resident of near Shiv Mandir Village Phalote Kathua (J&K)***

Therefore, no person other than complainant Dilawar Singh and Accused Rajinder Kumar are required to give consent for compromise.

2. Report regarding veracity of compromise.

On being inquired, the parties stated that they have entered into compromise with their own will and the same has been arrived at voluntarily and without out any threat, coercion or undue influence. From the conduct of the parties, their statements appears to be credible and the compromise appears to be genuine.”

4. Learned State counsel does not dispute the factum of compromise amongst the parties and does not have any serious objection to the resolution of the dispute amongst the parties.

5. Mr. Joginder Siwach, Advocate, appearing on behalf of respondent No.2, reiterates the settlement and his concurrence to the FIR and all other consequential proceedings being quashed.

6. 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.”

7. 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'.*

8. 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.

9. 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.”

10. 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) That the dispute has arisen from an accident between the parties and there is no previous dispute between the parties.
- (ii) That the FIR in question pertains to the year 2017 and all prosecution witnesses have been examined. The parties have already undergone 5 years of the agony of a criminal trial
- (iii) That the petitioner is 38 years of age and continuation of criminal proceedings will cause severe repercussions to the petitioner in discharge of his social obligations as well as at his work place.
- (iv) That continuation of criminal proceedings between the parties is not likely to sub-serve any larger public interest.
- (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 nor can it be said to have fallen under any of the prohibited categories.
- (vi) The proceedings are likely to end in futility for want of the complainant to support the case of prosecution;
- (vii) The petitioner does not suffer from any criminal antecedents and has not indulged in any such or similar case during the pendency of the case or after registration of the FIR.

(viii) The complainant and other independent witnesses are not likely to support the case of the prosecution. Continuation of the proceedings is likely to be a wastage 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.

11. In view of the report of the Judicial Magistrate Ist Class, Pathankot, 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 FIR No.29 dated 12.06.2017 under Sections 279 (Now deleted) 338 and 287 of the Indian Penal Code, 1860 registered at Police Station Sadar Pathankot, District Pathankot and all other consequential proceedings arising therefrom, **are hereby quashed** qua the petitioner in view of compromise dated 11.07.2019 (Annexure P-2). However, the same would be subject to payment of costs of Rs.15,000/- to be deposited by the petitioner in the '**District Legal Services Authority, Pathankot**' within one month from the receipt of certified copy of this order.

Petition is allowed, accordingly.

(VINOD S. BHARDWAJ)
JUDGE

05.07.2022
rajender

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