

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

230 (3 cases)

CRM-M-31291-2019 (O&M)

Date of Decision: 20.12.2022

Rakesh Gupta and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

CRM-M-29417-2015 (O&M)

Rakesh Gupta and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

COCP-1661-2017

Rakesh Gupta and Another

...Petitioners

Versus

Rahul Tiwari, Secretary, State of Punjab and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kamal Mor, Advocate for
Mr. Mr. Saurabh Dalal, Advocate
for the petitioner

Mr. Gaurav Gurcharan Singh Rai, DAG, Haryana
None for the complainant

JAGMOHAN BANSAL, J. (Oral)

By this common order, above referred three petitions are disposed of as all the petitions are arising from same cause of action. For the sake of convenience, facts are borrowed from CRM-M-31291-2019.

1. The petitioners through instant petition under Section 482 Cr.P.C, are seeking quashing of FIR No.135 dated 20.07.2015 (Annexure P-1) under Sections 420/120-B IPC, registered at Police Station Phase-I, District SAS Nagar, on the basis of Settlement Deed dated 14.09.2018 (Annexure P-2) and order dated 18.12.2018 (Annexure P-3) passed by Chief Judicial Magistrate, SAS Nagar, Mohali.

2. The petitioners entered into business transaction with private respondent who is author of impugned FIR No.135 dated 20.07.2015. The petitioners in their ordinary course of business handed over 5 cheques of Rs.23.50 Lacs to respondent No.2. The detail of cheques is as below:-

Sr. No.	Cheque No.	Dated	Amount	Bank
1.	001646	10.09.2014	6,00,000	Andhra
2.	001647	30.09.2014	6,00,000	Andhra
3.	001648	20.10.2014	6,00,000	Andhra
4.	001649	25.10.2014	5,00,000	Andhra
5.	001650	30.10.2014	50,000	Andhra

3. The respondent No.2 presented aforesaid cheques which came to be dishonoured. Feeling aggrieved from the acts and omission of the petitioners, the complainant filed complaints before Trial Court in terms of Section 138 of Negotiable Instruments Act, 1881, as well as lodged FIR under Section 420 read with 120-B IPC. The petitioners agreed to make payment and accordingly a compromise was arrived between the parties. The compromise was recorded before Mediation and Conciliation Center, SAS Nagar. As per report dated 14.09.2018 (Annexure P-2) of Mediation and Conciliation Center, the petitioner was supposed to pay a sum of Rs.30 Lacs to the private respondent. As per order dated 18.12.2018 passed by Chief Judicial Magistrate, SAS Nagar, Mohali, the petitioners have paid entire agreed amount and accordingly, the complaint was dismissed as withdrawn.

4. This Court vide order dated 25.07.2019 directed the parties to appear before Trial Court and tender their statements. As per report dated 13.09.2019 of Civil Judge (Jr. Div.)-cum-JMIC, Mohali, the petitioners appeared before Trial Court and tendered their statements, however, respondent No.2 did not come forward. Resultantly, statement of respondent could not be recorded. Respondent No.2 inspite of notice is not present. It is apt to notice that respondent No.2 on the earlier occasions was also not present. It shows respondent on account of receipt of entire disputed amount has lost his interest.

5. Learned State counsel on being confronted with the report of Mediation and Conciliation Center as well as order passed by CJM, SAS Nagar, Mohali, concedes that impugned FIR is founded upon the same set of allegations, which formed basis of complaint filed under Section 138 of Negotiable Instruments Act. The dispute between the parties is more or less civil dispute which stands settled on account of payment of entire disputed amount. The State has no objection if impugned FIR is quashed.

6. 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 predominantly 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 extra-ordinary 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).*

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."

7. From the perusal of the enclosed FIR, report of the Mediation and Conciliation Center, SAS Nagar Mohali and order of CJM, SAS Nagar, Mohali, 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 predominantly private in nature and no moral turpitude or interest of public at large is involved. There appears to be no chance of conviction, thus, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already over burdened.

8. In view of above facts and circumstances, the present petition deserves to be allowed and accordingly is allowed. FIR No.135 dated 20.07.2015 (Annexure P-1) under Sections 420/120-B IPC, registered at Police Station Phase-I, District SAS Nagar is hereby quashed qua the petitioners.

9. In view of above, CRM-M-29417-2015 and COCP-1661-2017 have become infructuous.

10. Accordingly, disposed of as infructuous.

11. Respondent No.2 is at liberty to move appropriate application if something survives.

(JAGMOHAN BANSAL)
JUDGE

20.12.2022
Mohit Kumar

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