

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-36449-2022 (O&M)
Date of decision: 13.12.2022

SHIV KUMAR AND ORS

....Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Shailender Kashyap, Advocate
for the petitioners.

Mr. Kamalpreet Bawa, AAG Punjab.

Mr. Balwinder Singh, Advocate
for respondent Nos.2 and 3.

AMAN CHAUDHARY. J.

This is the 3rd petition filed for quashing of FIR No.85 dated 19.10.2011 registered at Police Station Sirhind, District Fatehgarh Sahib under Sections 307, 323, 341, 148, 149 of IPC and all other consequential proceedings arising therefrom on the basis of compromise dated 23.04.2018.

Heard.

In **B.S. Joshi v. State of Haryana, (2003) 4 SCC 675**, the Hon'ble The Supreme Court of India observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. Hon'ble The Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing.

In the case of “**Gian Singh Vs. State of Punjab and another**”, 2012

(4) RCR (Criminal) 543, Hon'ble The Supreme Court of India had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of paras read thus:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

Hon'ble The Supreme Court of India in the case of **Yogendra Yadav v State of Jharkhand**, (2014) 9 SCC 653, held that “now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard

to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

Learned counsel for the petitioners submits that the injury has been declared to be simple in nature by the Medical Board of doctors dated 01.03.2012, appended as Annexure R-3 with the reply of the State dated 17.12.2018 as is also discernible from para 3 of the reply.

Adverting to the facts, parties in this case were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise.

Pursuant to the aforesaid order, report dated 30.11.2022 of learned Additional Sessions Judge, Fatehgarh Sahib has been received, which is taken on record. Learned Additional Sessions Judge, Fatehgarh Sahib has reported that the

compromise effected between the parties is voluntary, without any pressure or inducement, accused- petitioner has never been declared as proclaimed offender and he is not involved in any other case. The complainant has no objection in case the FIR in question is quashed qua the petitioner(s).

In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant(s), this Court finds that compounding the offences will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

Resultantly, the present petition is allowed and FIR No. 85 dated 19.10.2011 registered at Police Station Sirhind, District Fatehgarh Sahib under Sections 307, 323, 341, 148, 149 of IPC and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

(AMAN CHAUDHARY)
JUDGE

December 13, 2022

S.Sharma(syr)

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*