

238

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-36493-2022
Date of Decision: 02.12.2022

BINDER SINGH AND ORS Petitioners
Versus

STATE OF PUNJAB AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Ashish Gupta, Advocate
for the petitioners.

Mr. Digvijay Nagpal, AAG, Punjab.

Mr. Varun Gupta, Advocate
for respondents No.2 and 3.

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking setting aside of judgment and order dated 28.03.2022 passed by Judicial Magistrate 1st Class, Faridkot (Annexure P-2) on the basis of compromise dated 12.04.2022 (Annexure P-3).

In terms of order dated 18.08.2022 of this Court, learned Sessions Judge, Faridkot has submitted her report dated 29.08.2022. The relevant extracts of the report are as below :-

“From the aforesaid statements of the parties and Investigating officer, recorded in the court on 23.08.2022, the report is submitted as under:-

1. Number of persons arrayed as accused in the FIR.

(1) Binder Singh son of Gurdass Singh;

(2) Jagmeet Singh alias Bablu son of Binder Singh;

(3) Jagdish Singh alias Sonu son of Binder Singh;

(4) Satnam Singh alias Jassi son of Sukhchain Singh;

(5) Sukhchain Singh son of Gurdass Singh;

all residents of village Burj Hari Ka, District Faridkot.

2. *Whether any accused is proclaimed offender.*

None.

3. *Whether the compromise is genuine, voluntary and without any coercion or undue influence.*

As per the statement of complainant Jagsir Singh @ Gurbhej Singh, injured Gurpreet Singh @ Gori and joint statement of accused Binder Singh, Jagmeet Singh alias Bablu, Jagdish Singh alias Sonu, Satnam Singh alias Jassi and Sukhchain Singh, counter-signed by their learned respective counsels, compromise Ex.DX arrived at between the parties, the compromise appears to be genuine, voluntarily and without any pressure or undue influence.

4 *Whether accused persons are involved in any other case or not*

(a) Accused Satnam Singh @ Jassi son of Sukhchain Singh son of Gurdass Singh, resident of village Burj Hari Ka, District Faridkot, is accused in an other case bearing FIR No.08 dated 12.1.2019, under Section 509 IPC, Police station Hindu Mall Kot, Ganganagar.

(b) Accused namely Binder Singh, Jagmeet Singh alias Bablu, Jagdish Singh alias Sonu and Sukhchain Singh are not involved in any other criminal case.

5. *Current stage of the case.*

Arguments on merits of the appeal against judgment of conviction and order of sentence dated 28.3.2022, passed in case FIR No.71 dated 9.7.2017, Police Station Bajakhana, CIS No.CHI/432/2018, CNR No.PBFDO3-002503-2018, vide which accused

were convicted and sentenced for commission of offence punishable under Sections 148 IPC and 325,324,341,506 TPC read with Section 149 IPC.”

Statement of Investigation Officer was recorded by Appellate Court and said statement is part of report dated 29.08.2022 submitted by learned Appellate Court.

The petitioners have preferred appeal against impugned judgment and order dated 28.03.2022 and it is pending before Appellate Court. Learned counsel for the petitioners submits that in view of recent judgment of Hon'ble Supreme Court in ***'Ramgopal and another Vs. State of Madhya Pradesh, 2021 SCC online SC 834'*** and a Division Bench of this Court in ***Sube Singh and another vs. State of Haryana and another, 2014 (2) Crimes 299***, High Court can quash judgment of conviction on the basis of compromise, if appeal is pending.

Learned State counsel on instruction from Investigating Officer submitted that State has no objection if judgment and order of conviction, in view of compromise 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 320Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320Cr.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 320Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482Cr.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 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)*.*

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, compromise arrived between the parties and report of the Court below, 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. 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 judgments of Hon'ble Supreme Court and Division Bench of this Court cited by learned counsel for the petitioners, judgment of conviction can be set aside, if appeal is pending before Appellate Court. Parties are ad-idem that appeal against impugned judgment is pending before Appellate Court.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly is allowed. The judgment and order dated 28.03.2022 (Annexure P-2) is set aside.

(JAGMOHAN BANSAL)
JUDGE

02.12.2022
Ali

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

