

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

229

CRM-M-36531-2022

Date of Decision: 16.12.2022

Kamaljeet Singh and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. J.S. Khiva, Advocate,
for the petitioners
Mr. Digvijay Nagpal, AAG, Punjab
Mr. Ishan Thakur, Advocate
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The petitioners through instant petition on the basis of compromise dated 01.08.2022 (Annexure P-4) are seeking quashing of FIR No.0055 dated 15.07.2022 (Annexure P-3) under Sections 420 IPC, registered at Police Station Sadar Budhlada, District Mansa and all subsequent proceedings arising therefrom.

Learned counsel for the petitioners, inter alia, submits that there are three accused and compromise has been arrived between two accused and complainant.

In terms of order dated 18.08.2022 of this Court, Sub-Divisional Judicial Magistrate, Budhlada, has submitted his report dated 03.09 2022. The relevant extracts of the report are as below:-

“ (i) *Number of persons arrayed as accused in FIR.*
 Having gone through the judicial record, the statements of the parties and after having called for the report of concerned criminal Ahlmad, Naib Court of this court and from the statement of the IO of this case, this court finds that there are three persons namely Kamaljeet Singh son of Bhola Singh son of Nachattar Singh, resident of house no. 32, Harraipur alias Bhokhri, Tehsil Goniana, District Bathinda, Veerpal Kaur wife of Kamaljeet Singh son of Bhola Singh son of Nachattar Singh, resident of house no. 32, Harraipur alias Bhokhri,

Tehsil Goniana, District Bathinda and Sukhjit Kaur wife of Rajbir Singh, resident of Sidhiya Wala Mohalla, House no. 7341, Galt No 10, Mahna Chowk, Bathinda, who are arrayed as accused in the present FIR.

(ii) Whether any accused is proclaimed offender.

As per the police record and the statement of IO, none of the accused is declared as proclaimed offender in the present case.

(iii) Whether the compromise is genuine, voluntary and without coercion or undue influence.

So as to give opinion with regard to genuineness or otherwise of complainant/aggrieved namely Mithu Singh, who is the complainant in the case titled as Kamaljeet Singh and others Versus State of Punjab and Another"

In his statement he had submitted that the present FIR was registered at his instance against Veerpal Kaur wife of Kamaljeet Singh, Kamaljeet Singh son of Bhola Singh and Sukhjit Kaur wife of Rajbir Singh, under Section 420 of IPC. However, with the intervention of the panchayat members and other respectable persons of the society, he has compromised the matter with Veerpal Kaur and Kamaljeet Singh only. He further submitted that he had entered into a written compromise with his own sweet will and consent, without there being any pressure or coercion or any undue influence from any quarter, which has already been submitted before the Hon'ble High Court and he watch out for the said compromise and will not resile out from the same and he does not want to take any action against the present accused/petitioners.

He further submitted that today he is suffering the present statement with his free will and consent, fully understanding the legal consequences of the same, without there being any pressure, coercion or undue influence from any quarter. He further submitted that no other criminal case/case is pending between them. He had filed the present FIR only against three accused namely Veerpal Kaur, Kamaljeet Singh and Sukhjit Kaur and no other person has been arrayed as accused by him. He further submitted that he has no objection if the petition is allowed and the accused Kamaljeet Singh and Veerpal Kaur are acquitted from the present FIR/case. He was duly identified by his counsel Sh. Gurdas Singh Mander, Advocate. He had also placed on record photo copy of of the compromise deed as Mark A and copy of his aadhar card as Mark B.

In the same manner, the statement of the accused Kamaljeet Singh and Veerpal Kaur were also recorded, who had submitted that they are nominated as accused in this case and now with the intervention of the panchayat members and other respectable persons of the society, they have compromised the matter with

each other and now no dispute is pending between them and the complainant. They further submitted that they had entered into a written compromise with the complainant with their own sweet will and consent, without there being any pressure or coercion of any undue influence from any quarter, which has already been submitted before the Hon'ble High Court and they watch out for the said compromise and will not resile out from the same. They had placed on record copy of compromise deed as Mark A and accused Kamaljeet Singh has placed on record copy of his aadhar card as Mark D and accused Veerpal Kaur had also placed on record her aadhar card as Mark C for the purpose of identification.

They further submitted that today they are suffering the present statement with their free will and consent, fully understanding the legal consequences of the same, without there being any pressure, coercion or undue influence from any quarter. They prayed that the present petition may kindly be allowed and they be acquitted from the present FIR/case. No other criminal case/case is pending against them. None of them has been declared proclaimed offender in the present case.

Thus, in view of the statement of the parties, this court finds that the compromise is genuine, voluntarily and has been entered with the free will of the parties, without their being any coercion or undue influence.

(iv) Whether the accused persons are involved in any other case or not.

Having gone through the statement of ASI Teja Singh No.686/Mansa (IO of this case), this court finds that the present accused are not involved in any other offence.

(v) The number of the victim/complainant in the present FIR.

Having gone through the statement of ASI Teja Singh No. 686/Mansa (IO of this case), this court finds that there is only one victim/complainant in the present case namely Mithu Singh son of Dalip Singh, resident of village Alampur Bodla, Tehsil and District Mansa."

Learned counsel for the petitioners has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012 (12) SCC 401**, to contend that where there is a partial compromise with some of the accused then also, the proceedings

against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2015** titled as **'Dalip Mandal and another Vs. State of U.T., Chandigarh and others'**, in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only, although the matter had not been compromised between all the parties.

Learned counsel for private respondent-complainant submits that his grievance stands redressed and he undertakes not to raise any grievance against third accused i.e. Sukhjit Kaur qua FIR in question.

Learned State counsel would submit that respondent-State has no objection if the present FIR and all subsequent proceedings 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 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."

From the perusal of the enclosed FIR, report of the Trial Court and compromise arrived between the parties, 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. There appears to be no chance of conviction, 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 above facts and circumstances, the present petition deserves to be allowed and accordingly is allowed. FIR No.0055 dated 15.07.2022 (Annexure P-3) under Sections 420 IPC, registered at Police Station Sadar Budhlada, District Mansa and all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

16.12.2022
Mohit Kumar

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