

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

245 (2)

**CRM-M-38075-2020 (O&M)
Date of decision: 04.04.2022**

ASHWANI KUMAR AND OTHERS

... **Petitioners**

Versus

STATE OF PUNJAB AND ANOTHER

... **Respondents**

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

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

Mr. Karanbir Singh, AAG, Punjab.

Mr. Lalit Sharma, Advocate
Mr. Digvijay Nagpal, Advocate
for the respondent No.2.

VINOD S. BHARDWAJ. J.(Oral)

1. Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.18 dated 01.03.2016 under Sections 341, 323, 427, 379-B, 148, 149 IPC (Section 308 IPC was added later on, however, Sections 308 and 379-B IPC were deleted during investigation) registered at Police Station Guruhar Sahai, District Ferozepur on the strength of a written compromise dated 25.06.2020 (Annexure P-2) entered into between the parties.

2. Learned counsel for the petitioners submits that there was a minor altercation amongst the petitioner and respondent No.2 (complainant) resulting in registration of the FIR No.18 dated 01.03.2016 under Sections 341, 323, 427, 379-B, 148, 149 IPC (Section 308 IPC was added later on,

however, Sections 308 and 379-B IPC were deleted during investigation) registered at Police Station Guruhar Sahai, District Ferozepur and that with the intervention of the respectables from both the sides, the matter has been settled and amicably resolved. It is further submitted that the compromise amongst the parties was effected on account of free will and without any pressure and coercion.

3. Vide orders dated 19.11.2020, 16.12.2020 and 02.03.2021 respectively, the parties were directed to appear before the Illaqa Magistrate to get their statements recorded and the Illaqa Magistrate was further directed to send the report regarding the genuineness of the compromise and to also intimate whether any criminal proceedings against the petitioners are pending.

4. In compliance of the said order, a report from the Sub Divisional Judicial Magistrate, Guruharsahai has been received vide reference No. 76 dated 20.04.2021. The Sub Divisional Judicial Magistrate, Guruharsahai has reported as under:-

“In view of the above statements of the parties and perusal of record, it is made out that the compromise arrived at between the parties is genuine and further that no accused is declared as Proclaimed offender in this case. However, accused Krishan Lal Sharma is also involved as accused in FIR No. 114 dated 24.06.2019, under Sections 323, 341, 379-B, 506, 148, 149 IPC, PS Guruharsahai; FIR No. 53 dated 11.04.2019, under Sections 341, 382, 323, 506, 148, 149 IPC, PS Guruharsahai; FIR No. 174 dated 29.09.2018, under Sections 379-B, 341 IPC, PS Guruharsahai and FIR No.20 dated 19.03.2015, under Sections 420, 467, 468, 471 IPC, PS Bariwala, District Muktsar Sahib. Statement of Nishan Dhawan @ Nishan Singh and ASI Mohinder Singh are also enclosed

herewith.”

5. 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 been 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 ever-lasting 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.

6. 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**. Still further, 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**, the same are extracted as under:

16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6 In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or mis-demeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

7. 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.

8. The Hon'ble Supreme Court in the matter of **"Ramgopal and another versus State of Madhya Pradesh"** reported as **2021 SCC ONLINE SC 83**, that the matters which can be categorized as personal in nature or in the matters 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.

9. A perusal of the case shows that it is itself an incident of version and cross-version. While the FIR in question was initially registered under Sections 341, 323, 427, 379-B, 148,149 IPC, Section 308 IPC was added later on. However, during the investigation Section 308 IPC and

Section 379-B IPC were deleted. It stands established that it is a case of scuffle between the parties as a result of misunderstanding leading to injuries on non-vital part being inflicted and received by the respective parties. The parties are residents of the same locality i.e. Mandi Guruharsahai and have amicably chosen to resolve their dispute. The parties do not suffer from any criminal antecedents and have voluntarily chosen to give quietus to the dispute in order to promote peace, harmony and mutual respect for each other. Continuation of the proceedings is not likely to advance any interest of justice. Rather, subjecting the parties to undergo the rigors of criminal trial is only likely to result in agony. The parties will not support the case of the prosecution resulting in a waste of judicial time. Thus, parties are likely to devise means to subvert the process of law. Continuation of the proceedings is only likely to be an exercise in futility and is not likely to advance any interest of justice. The offences in question cannot be termed as heinous or severe or as may be labeled shocking to the conscience of the Society or public at large. It cannot also be presumed that the injuries sustained by the respective parties have occasioned mental depravity and have caused public outcry. No substantive ends of justice are likely to be secured by the continuation of the criminal proceedings.

10. Considering the facts of the instant case noticed above and the principles laid down by the Apex Court in “Gian Singh Versus State of Punjab and another”, (2012) 10 SCC 303, “Ramgopal and another versus State of Madhya Pradesh” reported as 2021 SCC ONLINE SC 834 and also by the Full Bench of this Court in “Kulwinder Singh and others versus State of Punjab and another”, 2007 (3) RCR (Criminal) 1052, that the dispute involved in the instant case pertains to offences under Sections 341, 323,

427, 379-B, 148, 149 IPC (Section 308 IPC was added later on, however, Sections 308 and 379-B IPC were deleted during investigation) which cannot be perceived as falling within the prohibited category or as an offence that is heinous and grossly shocking to the conscience of the Court or having wide pervasive impact on the social or public order, the instant petition is allowed and the case bearing FIR No.18 dated 01.03.2016 under Sections 341, 323, 427, 379-B, 148, 149 IPC (Section 308 IPC was added later on, however, Sections 308 and 379-B IPC were deleted during investigation) registered at Police Station Guruhar Sahai, District Ferozepur and all subsequent proceedings arising therefrom **are hereby quashed**, qua the petitioners in light of the compromise dated 25.06.2020 (Annexure P-2). However, the same would be subject to payment of costs of Rs. 5,000/- by each petitioner to be deposited with the **“Punjab and Haryana High Court Lawyers Welfare Fund”** within one month from the date of receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

APRIL 04, 2022

Vishal Sharma

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