

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

240

CRM-M-34690-2019

Date of Decision: 14.12.2022

Ashish

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Amit Kumar Jain, Advocate
for the petitioner
Ms. Dimple Jain, AAG Haryana
Mr. Munfaid Khan, Advocate, for
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The instant petition, on the basis of compromise, has been filed under Section 482 Cr.P.C. seeking quashing of judgment of conviction dated 07.12.2016 (Annexure P-2) passed by Principal Magistrate, Juvenile Justice Board, Bhiwani in Criminal Inquiry No.57-J of 2016 on the basis of Compromise (Annexure P-3).

In terms of order dated 26.08.2019 of this Court, CJM, Charkhi Dadri, has submitted his report dated 04.11.2019. The relevant extracts of the report are as below:

“From the report of the Investigating Officer, it appears that in the FIR, total four accused persons namely Surender S/o Satyanarain, Rupesh @ Rohit S/o Dharmender, Shankar S/o Dharmender and Ashish S/o Narender have been arrayed and during investigating accused namely Rupesh @ Rohit S/o Dharmender was found innocent and challan against the remaining three accused was forwarded to the court for trial. It is further submitted that none of them has been declared a proclaimed offender in the present case and no other criminal case is pending against either of the parties and there is only one

complainant/victim in the present case. The report is hereby submitted as desired by Hon'ble High Court."

Learned State counsel and counsel for the private respondent would submit that they have no objection if judgment of conviction and consequential 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. 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."

Concededly, appeal against judgment of conviction and order of sentence is pending before learned Additional Sessions Judge, Charkhi Dadri.

From the perusal of the enclosed FIR, judgment of conviction, report of the Court below 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 petitioner at the time of commission of alleged offence was minor and he has been awarded sentence of 1 year. In view of age of petitioner, sentence awarded and nature of alleged offence, it would not be in the fitness of things and interest of justice to ignore compromise and keep the juvenile behind the bars. 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 be just waste of 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. Judgment of conviction dated 07.12.2016 (Annexure P-2) passed by Principal Magistrate, Juvenile Justice Board, Bhiwani and all consequential proceedings are hereby quashed.

(JAGMOHAN BANSAL)
JUDGE

14.12.2022
Mohit Kumar

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