

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

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**CRM-M-46057-2021
Date of decision: 15.03.2022**

RUPINDER SINGH @ RUPI AND OTHERS **... Petitioners**

Versus

STATE OF PUNJAB AND OTHERS **... Respondents**

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

Present: Mr. Yashpal Thakur, Advocate for the petitioners.

Mr. Sukhbeer Singh, Asstt. A.G. Punjab

Mr. S.S. Sarwara, Advocate for
Mr. Gaurav Arora, Advocate
for respondents No.2 to 4

VINOD S. BHARDWAJ.J.(Oral)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

1. The petitioner has approached this Court for seeking quashing of FIR No.141 dated 19.10.2014 registered under Sections 323, 324, 148, 149 and 506 IPC at Police Station Bassi Pathana, District Fatehgarh Sahib (Annexure P-5) and all subsequent proceedings arising therefrom on the strength of compromise dated 06.10.2021 (Annexure P-9) entered between the parties.

2. Learned counsel for the petitioner submits that there was a minor altercation amongst the petitioner and respondents No.2 to 4 resulting in registration of the FIR No.141 dated 19.10.2014 registered under Sections

323, 324, 148, 149 and 506 IPC at Police Station Bassi Pathana, District Fatehgarh Sahib (Annexure P-5) 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 order dated 02.11.2021, which was directed as under :-

- “1. the number of accused arraigned in the FIR and how many have appeared before it and have made statements and whether any accused is absconding/P.O. in the case;*
- 2. the name of the complainant and injured/aggrieved and whether all of them have appeared and made their statements in support of the compromise;*
- 3. the stage of trial/proceedings;*
- 4. if the compromise is genuine, voluntary and out of free will of the parties;*
- 5. whether any other criminal case is pending against the accused.”*

4. In compliance to the said order, a report from the Chief Judicial Magistrate, Fatehgarh Sahib has been received vide letter No.1 dated 04.01.2022. The Chief Judicial Magistrate, Fatehgarh Sahib has reported as under:-

- 1. As per the statement suffered by the IO SI Baljinder Singh in this case, in this FIR, there were total five accused Rupinder Singh alias Rupinder, Hardeep Singh, Harman Singh and Rakesh Kumar alias Budhu and Surjit Singh. He further stated that out of the said accused persons, one accused namely Surjit Singh expired during the investigation of this case and accordingly challan in this*

case was presented against four accused persons only namely Rupinder Singh alias Rupi, Hardeep Singh, Harman Singh and Rakesh Kumar alias Budhu. Further, as per the statement suffered by the IO SI Baljinder Singh, no P.O. proceeding is pending against accused in this case.

2. *As per record, Davinder Singh is the complainant of this FIR while Gurmukh Singh and Gurdeep Singh were also injured along with the complainant Davinder Singh in this case and all of them have suffered statements in support of the compromise.*
3. *As per the record, the present case is still pending for the prosecution evidence.*
4. *After going through the statements suffered by the parties, this court is of the view that a genuine and valid compromise has been effected between the parties which is without any pressure or undue influence of any manner upon either of the party.*
5. *As per the statement suffered by the IO SI Baljinder Singh, some other cases are also pending or decided against the accused persons in P.S. Bassi Pathana qua which a report has been prepared by the MHC Bassi Pathana (which is enclosed herewith as Annexure A.)”*

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 FIR shows that the accused party had opened an attack on the complainant while they were sitting in the Varandah of the house of the complainant. It is stated that the accused caused injuries with soti and dangs and threatened to eliminate the complainant on account of a political rivalry for the post of the President of the Truck Union. It is evident that the dispute owes its origin to the political rivalry amongst the parties. Injuries are alleged to have been caused in the said process. The dispute is a private dispute amongst the parties which does not cause social unrest or shock the conscience of the Court. It is also not in the nature as would cause mental depravity to the complainant or to any other person or where public interest would outweigh refusal to accept the compromise-the offence being heinous. Besides, the compromise has been effected voluntarily amongst the parties. Even though the FIR in question is stated to have registered in the year 2014, however, the case is still pending for the prosecution evidence

despite expiry of a period of more than 07 years. The parties happen to be residing the same neighbourhood in Tehsil Bassi Pathana. Amicable resolution of the dispute shall promote peaceful co-existence amongst the parties. It is also not disputed that even though the incident in question had taken place in the year 2014, there had been no other repetition of a similar incident at the behest of the accused. No useful purpose shall be served by continuation of the proceedings and forcing the accused to undergo rigours of a criminal trial in futility. It would only be an extension of protracted agony rather than achieving any purpose.

10. Considering the facts of the instant case and noticing 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 offence under Sections 323, 324, 148, 149 and 506 IPC 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 a wide pervasive impact on the social or public order, the instant petition is allowed and the case FIR No.141 dated 19.10.2014 registered under Sections 323, 324, 148, 149 and 506 IPC at Police Station Bassi Pathana, District Fatehgarh Sahib (Annexure P-5) and all subsequent proceedings arising therefrom **are hereby quashed**, in light of the compromise dated 06.10.2021 (Annexure P-9). However, the same would be subject to payment of costs of Rs. 10,000/- by each petitioner to be deposited with the “**Poor Patients Welfare Fund**” of the **Postgraduate**

Institute of Medical Education and Research (PGIMER), Chandigarh,
within one month from the date of receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 15, 2022
Vishal Sharma

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