

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

Sr. No.263

CRM-M-41925-2019

Date of Decision: September 20, 2022

Gurjit Kaur and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Ms. Seena Mand, Advocate for the petitioners.

Mr. Kamal Preet Bawa, AAG, Punjab.

Mr. Mohit Sain, Advocate for

Mr. Mohit Garg, Advocate for respondent No.2.

AMAN CHAUDHARY, J.(Oral)

Present petition has been filed for quashing of FIR No.199, dated 13.07.2018, under Sections 420, 465, 466, 468, 471 and 120-B IPC, registered at Police Station City Jagraon, District Ludhiana and all other consequential proceedings arising therefrom on the basis of the compromise dated 03.09.2019 (Annexure P-2).

Notice of motion was issued on 30.09.2019 and both the parties were directed to appear before the trial Court/Illaqa Magistrate for recording their statements in the context of genuineness of the compromise. The trial Court was also directed to submit its report accordingly.

Pursuant to the aforesaid order, report dated 24.10.2019 has been received from the Judicial Magistrate 1st Class, Jagraon (Duty). A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between the parties and they have no objection in case

the FIR in question is quashed and the compromise effected between them is genuine, without any undue influence and coercion. It is also stated in the report that there are two accused and that petitioner No.2, namely, Harjeet Kaur Dhaliwal has not been effected in this case therefore, she was placed in column no.2 of the challan. She is residing abroad and entered into compromise through her power of attorney Rajinder Singh. In this regard, reliance has been placed by the learned counsel for the petitioner in case of **“Kuldip Singh Jaswal and others vs Jaspal Singh and another”** (CRM-M-12551-2012, decided on 03.09.2015) and in case of **“Asheesh Kumar Sharma vs Rajesh Gupta”** (CRM-M-14752-2009 decided on 14.08.2013).

I have heard learned counsel for the parties and have also gone through the case file.

After perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioner(s) and the complainant(s). Since the matter has been settled and the parties have decided to live in peace, this Court is of the view that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

It is apposite to refer to a judgment of Division Bench of this Court in case of **“Mangal Dass Gautam and another vs State of Haryana & another”** reported as 2020(2) R.C.R. (Criminal) 382. The relevant paragraphs of the said judgment are as under:

“25. A person, who is infirm and unable to move about, has also the same right like others to sue and defend himself/herself for his/her cause in the Courts etc, but due to aforesaid infirmity, it is not possible

for him/her, sometimes, to do the same in person, then a need arises to depute someone to defend the cause on his/her behalf by giving self intention and willingness/authority to a person to do on his/her behalf in the form of Power of Attorney.

26. Likewise, a person who is settled abroad/residing far away from the jurisdiction of Court where his/her cause is to be settled/decided, and is unable to sue/defend himself/herself for any cause pending in the Courts of Law, due to the reasons of health, residing far away from that place, there also a need arises to sue/defend himself/herself through some person of good-faith by giving willingness, intention or desire executing a authoritative instrument in favour of such person to work on behalf of such executant.

41. The questions in Reference are, thus, answered as follows:-

i) Criminal proceedings under section 482 of Cr.P.C., 1973 can be filed by an accused through an Attorney but the circumstances under which it can be so filed and would be maintainable would be dependent upon various factors including facts and circumstances of that particular case, which is better left at the wisdom and discretion of the Court.”

As per the Full Bench judgment of this Court in “**Kulwinder Singh and others Vs State of Punjab**”, 2007 (3) RCR (Criminal) 1052, it is held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the view that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

Hon'ble the Apex Court in the case of “**Gian Singh Vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The

relevant portion of para 57 of the said judgment is reproduced hereinbelow:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

In view of the above, the petition is allowed and FIR No.199, dated 13.07.2018, under Sections 420, 465, 466, 468, 471 and 120-B IPC, registered at Police Station City Jagraon, District Ludhiana and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

September 20, 2022

sarita

(AMAN CHAUDHARY)

JUDGE

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