

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

229

CRM-M-50561-2022

Date of Decision : 21.12.2022

Harnek Singh

..... Petitioner

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Ankit Gupta, Advocate
for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

Ms. Deepika, Advocate
for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

The petitioner, through instant petition, is seeking quashing of FIR No.103 dated 19.10.2019 under Sections 379-B and 34 of Indian Penal Code, registered at Police Station D-Division, District Amritsar (Annexure P-1) and all consequential proceedings arising therefrom, on the basis of compromise-deed/affidavit dated 13.09.2022 (Annexure P-2).

In terms of order dated 21.11.2022, learned Additional Sessions Judge, Amritsar has submitted his report dated 13.12.2022. The relevant extracts of the report are as below :-

“(i) That as per statement of complainant who is the only victims present in the Court alongwith her counsel, compromise effected between her and accused Harnek Singh, is genuine, voluntary and without any coercion or

undue influence. The undersigned has examined the parties in person and is of the considered opinion that compromise arrived at between the parties is genuine and voluntary and there is no coercion or undue influence, reflected as per statements of the parties.

(ii) That in the present case, as per challan there are three accused persons. One accused namely Sunny has been put in column no.2 of the challan, qua to whom it is mentioned that same would be got discharged. Further accused/petitioner Harnek Singh and other accused Lakhan Sharma, are on bail. in the present case and are regularly appearing.

(iii) That as per Ahlmad report in the present case, no other proceedings are pending against the petitioner Harek Singh before this Court.

(iv) That in light of the statement of ASI Jatinderpal Singh, Investigating Officer, none of the accused has been declared proclaimed offender in the present case."

Learned counsel for the petitioner 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 the State submits that he has no objection if the present FIR and consequential proceedings are quashed.

Learned counsel for respondent No.2 undertakes that petitioner will not raise his grouse against 2nd accused i.e. Lakhan Sharma son of Shankar Sharma.

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 pre-dominantly 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 extraordinary 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 \(Supra\)](#).

14. 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 predominantly 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.103 dated 19.10.2019 under Sections 379-B and 34 of Indian Penal Code, registered at Police Station D-Division, District Amritsar (Annexure P-1) and all other consequential proceedings arising therefrom are quashed qua the petitioner(s) only.

(JAGMOHAN BANSAL)
JUDGE

21.12.2022
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>