

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

242

**CRM-M-51831-2022 (O&M) WITH
CRA-S-2216-SB-2017 AND
CRA-S-162-SB-2017
Date of Decision: 13.12.2022**

Balbir Kaur @ Balvir Kaur and Others

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Jasmeet Singh Ghumman, Advocate,
for the petitioner

Mr. Digvijay Nagpal, AAG, Punjab

Mr. Sukhdeep Singh, Advocate,
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.29 dated 19.03.2015 (Annexure P-1) under Sections 323, 325, 506 and 34 of IPC (Section 308 IPC added later on), registered at Police Station Goraya Jalandhar and setting aside of judgment dated 12.05.2017 (Annexure P-2), vide which petitioners have been convicted and all consequent proceedings arising thereon, on the basis of compromise dated 20.09.2022 (Annexure P-3).

The petitioner Nos.2 and 3 have been convicted under Section 308 IPC and petitioner No.1 has been convicted under Section 308 read with 34 IPC. The complainant is husband of petitioner No.1 and father of petitioner Nos.2 and 3.

In terms of order dated 11.11.2022 of this Court, JMIC, Phillaur, has submitted his report dated 24.11.2022. The relevant extracts of the report as below:-

“From the statement of the parties, the undersigned is satisfied that the compromise has been effected between the respondent/complainant and accused/Petitioner is voluntarily and genuine. There are three persons arrayed as accused in the FIR and No accused was declared Proclaimed offender in the present case. There is no other case/FIR filed against these accused and no other proceeding is pending against accused/petitioner

The compliance report along with statements of parties recorded by the undersigned are submitted herewith.”

Learned State counsel submits that respondent-State has no objection if the present FIR and all subsequent proceedings are quashed.

Learned counsel for private respondent would also submit that he has no objection if the present petition is allowed.

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."

The dispute is between the family members i.e. father and sons/wife. The FIR was lodged by complainant against his two sons and wife. The dispute was between family members on account of misunderstanding and family has amicably settled the dispute. Section 307 of IPC is not compoundable; however, nobody would be at gainful end, if litigation is allowed to continue because it would spoil relations of the family members' as well waste valuable time of the Court.

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 pre-dominantly private in nature and no moral turpitude or interest of public at large is involved. 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. Judgment and order dated 12.05.2017 (Annexure P-2), vide which petitioners have been convicted under different Sections of IPC and sentenced to

imprisonment is set aside. The bail bonds of the petitioners are ordered to be discharged.

In view of above terms, CRA-S-2216-SB-2017 and CRA-S-162-SB-2017 stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

12.12.2022
Mohit Kumar

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