

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

236

CRM-M-51949-2022 (O&M)

Date of Decision : 09.12.2022

C.L.Sharma @ Ajay Sharma and others

..... Petitioners

Versus

State of Haryana and others

. Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Gautam Kumar, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. Rajesh Tushar, Advocate
for respondents No.2 and 3.

JAGMOHAN BANSAL, J. (Oral)

The instant petition, on the basis of compromise dated 20.10.2022 (Annexure P-4), has been filed under Section 482 Cr.P.C., seeking quashing of judgment and order dated 17.02.2020/24.02.2020 (Annexure P-2) whereby learned JMIC, Yamuna Nagar at Jagadhri has convicted the petitioners and awarded sentence.

The petitioners have filed appeal before Sessions Court assailing judgment of conviction and same is pending before learned Additional Sessions Judge, Yamuna Nagar at Jagadhri.

In terms of order dated 11.11.2022 passed by this Court, learned JMIC, Yamuna Nagar at Jagadhri, has submitted his report dated 23.11.2022. The relevant extracts of the report are as below :-

“After considering the oral submissions and written statements made by the parties, I am satisfied that the compromise has been actually arrived at between the parties and same is effected with their free volition and the same is not the result of any undue influence or pressure or coercion or threat or any fear. Statements of the parties have been recorded, in which they have been duly identified by their respective counsels.

It is further submitted that the accused persons were held guilty and convicted vide Judgment dated 17.02 2020 under Sections 323, 452 & 506 of IPC read with 34 of IPC and sentenced to imprisonment and to pay fine vide order dated 24.02.2020 by the court of Shri Sher Singh. the then Learned Judicial Magistrate 1st Class, Jagadhri, the predecessor of this court. That appeal no. CRA-109 of 2020 has been filed against the said Judgment and order by them, which is pending before the court of Shri Amarinder Sharma, Learned Additional Sessions Judge, Jagadhri.

As per the case file of complaint no. 168 of 06.03.2013/31.05.2018, the complaint was filed by the complainant Gulshan Kumar against four accused persons/petitioners. All accused persons have faced the trial. In the criminal appeal No. CRA-109 of 2020 filed by the accused persons, their sentence awarded by learned Trial Court has been suspended till disposal of appeal and they have admitted to bail vide order dated 18.03.2020 by the Learned Appellate Court. The accused persons are on bail in the appeal filed by them. That as per the case file and as per the statement of accused persons/petitioners, none of them has been declared proclaimed offender/person in the complaint and appeal.

It is submitted that as per the statement (Annexure

B) of accused persons/petitioners, except the complaint in question and appeal against the Judgment dated 17.02.2020 and order of sentence dated 24.02.2020, no other proceedings are pending against them in any court. Moreover, as per the report of SHO Police Station Farakpur, the accused persons/petitioners are not involved in any criminal case.”

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 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 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.](#)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, 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 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 17.02.2020/24.02.2020 (Annexure P-2) passed by learned JMIC, Yamuna Nagar at Jagadhri is hereby quashed.

09.12.2022
anju

(JAGMOHAN BANSAL)
JUDGE

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