

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

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**CRM-M-45126-2019
Date of decision: 23.03.2022**

HARBHAG SINGH AND ANOTHER

... Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

... Respondents

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

Present: Mr. Vipin Mahajan, Advocate
for the petitioners.

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

Mr. Vishal Munjal, Advocate
for respondent No.2.

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 seeking quashing of FIR No.32 dated 08.03.2018 under Sections 452, 323 and 34 IPC registered at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur (Annexure P-1) and all subsequent proceedings arising therefrom on the strength of compromise (Annexure P-2) entered between the parties.

2. Learned counsel for the petitioner submits that there was a minor altercation amongst the petitioner and respondent No.2 (complainant) resulting in registration of the FIR No.32 dated 08.03.2018 under Sections 452, 323 and 34 IPC registered at Police Station Dera Baba Nanak, Police

District Batala, District Gurdaspur (Annexure P-1) 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 22.10.2019, the parties were directed to appear before the Illaqa Magistrate to get their statements recorded and the Illaqa Magistrate was further directed to send the report regarding the genuineness of the compromise and to also intimate whether any criminal proceedings against the petitioners are pending.

4. In compliance to the said order, a report from the Judicial Magistrate First Class, Batala has been received vide reference No. 140 dated 29.02.2020. The Judicial Magistrate First Class, Batala has reported as under:-

“In compliance to the aforesaid order dated 07.01.2020 of Hon’ble Punjab and Haryana High Court, it is respectfully submitted that the point-wise report of undersigned is as follows:-

- i. It is submitted that as per statement of investigating officer the present FIR has been registered against two persons namely Harbhag Singh son of Ajaib Singh and Sukhdeep Singh son of Harbhaj Singh.*
- ii. None of the accused has been declared as proclaimed person/offender in the present case.*
- iii. It is submitted that no proceeding are pending in the present FIR.*
- iv. In view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between complainant/respondent No.2 and petitioners*

no.1 & 2 is genuine, which is not the result of any pressure or coercion.”

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 complainant has alleged that the marriage of her younger son namely Hardip Singh was solemnized

with Kulbir Kaur daughter of Harbhag Singh and he is having a son of more than two years. It is alleged that the daughter-in-law Kulbir Kaur is residing separately. A perusal of the FIR also shows that on the date of incident, Kulbir Kaur along with her father Harbhag Singh and her brother Sukhdip Singh entered the house and gave a sota blow on the complainant causing injuries. It is evident that the dispute relates within the family and the same has been amicably resolved with the intervention of respectable. It is also apparent that the FIR pertains to the year 2018 and that no untoward incident has taken place amongst the parties thereafter. The continuation of the proceedings shall only compound the grievances amongst the parties and would not advance any interest of justice. It would not be in the fitness of things to relegate the parties to undergo the agony of protracted criminal trial which would finally and in futility. The parties do not have any criminal antecedents. It would thus be appropriate that in order to promote harmony amongst the parties and peaceful co-existence, the FIR as well as other consequential proceedings arising therefrom are quashed.

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 452, 323 and 34 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.32 dated 08.03.2018 under Sections 452, 323 and 34 IPC registered at Police Station Dera Baba Nanak, Police District Batala, District Gurdaspur (Annexure P-1) and all subsequent proceedings arising therefrom **are hereby quashed**, in light of the compromise (Annexure P-2). However, the same would be subject to payment of costs of Rs. 10,000/- by each petitioner to be deposited with the **“High Court Lawyers Welfare Fund”** within one month from the date of receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

MARCH 23, 2022

Vishal Sharma

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