

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-47369-2019 (O&M)
Date of decision: 13.12.2022

UTTAM PREET SINGH SETHI ALIAS RINKU SETHI AND ORS

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Neeraj Yadav, Advocate
for the petitioners.

Mr. Kamalpreet Bawa, AAG Punjab.

Mr. Mikhal Kad, Advocate
for respondent Nos.2.

AMAN CHAUDHARY. J.

Present petition filed for quashing of FIR No.23 dated 12.02.2015 under Sections 307, 382, 452, 427, 506, 148 and 149 of IPC and Section 25/27 of Arms Act, 1959 registered at Police Station E Division, Amritsar and all other subsequent consequential proceedings arising therefrom on the basis of compromise.

Heard.

In **B.S. Joshi v. State of Haryana, (2003) 4 SCC 675**, the Hon'ble The Supreme Court of India observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. Hon'ble The Apex Court

laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, section 320 Cr.P.C. would not be a bar to the exercise of power of quashing.

In the case of “**Gian Singh Vs. State of Punjab and another**”, 2012

(4) RCR (Criminal) 543, Hon'ble The Supreme Court of India 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 paras read thus:-

“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”

61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

Hon'ble The Supreme Court of India in the case of **Yogendra Yadav v State of Jharkhand**, (2014) 9 SCC 653, held that “now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (**Gian Singh v. State of Punjab**, 2012(4)

R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

Learned counsel for the petitioners submits that the petitioners and the complainant are running shops in the same market and have no quarrel prior to the alleged incident, wherein though the allegations were that, the fire arms were used, however, learned State counsel makes a reference to para 4 of the reply dated 9.1.2021, filed by way of affidavit of Assistant Commissioner of Police, Amritsar City to contend that on enquiry it was found that no person was with weapon, shop of complainant-Nishan Singh was not damaged, no cash was

looted. It has also been mentioned that no person was injured, no one was arrested, no weapon was recovered, nor any empty bullet shell was found there. It has further been mentioned in the reply that with the intervention of the respectables of the society and the vicinity, the matter stands compromised between the parties.

Adverting to the facts, parties in this case were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise.

Pursuant to the aforesaid order, report dated 09.12.2022 of learned Additional Chief Judicial Magistrate, Amritsar has been received, which is taken on record. Learned Additional Chief Judicial Magistrate, Amritsar has reported that the compromise effected between the parties is voluntary, without any pressure or inducement, accused-petitioners have never been declared as proclaimed offender and they are not involved in any other case. The complainant has no objection in case the FIR in question is quashed qua the petitioner(s).

State has also filed reply dated 09.01.2021 by way of affidavit of Parvesh Chopra, PPS, ACP, Central, Commissionerate of Police, Amritsar City. Learned State counsel makes a reference to para 4 thereof, which reads thus:-

“That During investigation, Petitioner No. 1, submitted an application before the Commissioner of Police, Amritsar, mentioning therein that Nishan Singh has got registered false case FIR No. 23 dated 12.02.2015 U/s 307/382/452/427/506/148/149 IPC, 25/54/59 Arms Act, PS E, Division, Amritsar. Further he requested for the enquiry of the case. This application was registered vide No. 529 / P.C/C.P.O dated 19.02.2015 and was marked to the Assistant Commissioner of Police, Central, Amritsar City, for enquiry. Assistant Commissioner of Police, Central, Amritsar-city, enquired the matter and submitted his report through ADCP, City-1, Amritsar, vide No. 417-5AP dated 22.06.2015. From report, it is revealed that ACP/Central, Amritsar, visited the spot of occurrence and enquired the matter secret and openly

and found that the petitioner No. 1 had dispute matter of money exchange with one Parshotam Lal merchant of Nurpur and Nishan Singh (Respondent No. 2) went in the favour of Parshotam Lal for setting the matter, but matter was not settled. Respondent No. 2 went in front of the shop of petitioner No. 1 on 12.02.2015 and used abusive language. Then, Petitioner alongwith 3 - 4 elected persons went in Durga market to the shop of Respondent No. 2, but he was not there and when they were returning back, Respondent No. 2 came in the market, and attacked the petitioner from the back side, caught hold of his turban and pulled down. The story which was recorded by Respondent No. 2 at the time of lodging of FIR No. 23/2015 PS Kotwali, Amritsar, against the petitioners and others is not proved. On enquiry, it is found that no person was with weapon, shop of Nishan Singh was not damaged, no cash was looted. Matter is only using abusive language. In this case no person was injured, no person is arrested, no weapon is recovered nor any empty bullet shell is recovered. The elected persons of the market have got compromised between both the parties. Further he recommended that the above said case may be cancelled. On this report, Legal Opinion was sought from the District Attorney (Legal), Amritsar, who opined as under : -

"I have gone through the case file and enquiry report. Nishan Singh complainant has filed the affidavit that the compromise has been effected regarding the occurrence. Since the offence is non-compoundable. So, in my opinion the charge sheet may please be submitted in the court for judicial verdict."

In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant(s), this Court finds that compounding the offences will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

Resultantly, the present petition is allowed and FIR No.23 dated 12.02.2015 under Sections 307, 382, 452, 427, 506, 148 and 149 of IPC and Section 25/27 of Arms Act, 1959 registered at Police Station E Division, Amritsar

and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

(AMAN CHAUDHARY)
JUDGE

December 13, 2022

S.Sharma(syr)

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