

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

229

CRM-M- 64360-2018

Date of Decision : 14.11.2022

Harsavrup and others

..... Petitioners

Versus

State of Haryana and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Parveen Kumar, Advocate for
Mr. Abhimanyu Singh, Advocate
for the petitioners.

Ms. Dimple Jain, AAG, Haryana.

Mr. Monu Sachdeva, Advocate
for respondents No.2 and 3.

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C., seeking quashing of FIR No.347 dated 03.08.2017, under Section 25 of Arms Act, 1959 and Sections 147, 148, 149, 323, 324, 506 of IPC, registered at Police Station Sohna, District Gurugram (Annexure P-1), and FIR No.345 dated 03.08.2017, under Section 25 of Arms Act, 1959 and Sections 147, 148, 149, 323 of IPC, registered at Police Station Sohna, District Gurugram (Annexure P-2) and all the subsequent proceedings arising therefrom, on the basis of compromise-deed/affidavit dated 17.10.2018 (Annexures P-5 and P-6).

In terms of order dated 09.01.2019, learned JMIC, Sohna has submitted his report dated 16.02.2019. The relevant extracts of the report are as below :-

“Query No. 1:- Number of persons arrayed as the accused in the FIR.

Submission:- Originally, the FIR No.345 dated 03.08.2017 was registered against 17 persons and after the recording of the statements under Section 161 of Code of Criminal Procedure, the number of accused increased to 41 and post investigation, the charge-sheet envisaged under Section 173 of Code of Criminal Procedure was filed for the offences punishable under Sections 147, 148, 323, 325 & 506 read with Section 149 of the Indian Penal Code, 1860 only against 06 of them: 1. Mamraj son of Sh. Balram, 2. Puran son of Sh. Balram, 3. Mehar Chand son of Sh. Lekhram, 4. Ram Chander son of Sh. Balram, 5. Bhagwan Sahai son of Sh. Kewal, 6. Rajender son of Sh. Bhagwan Shah and currently it is the aforesaid 06 accused were facing the trial before this court.

Query No. 2: Whether any of the accused is a previous convict, proclaimed offender or has been involved in any other criminal case?

Submission:- As per the report obtained from the investigator of the case, none of the aforesaid accused is a previous convict nor the proclaimed offender.

Query No. 3: Whether the compromise is genuine, voluntary and without any coercion or undue influence?

Apropos of this query, with profound deference, I may take the liberty of submitting that on being individually enquired by the undersigned about the voluntary nature of the compromise, all the parties thereto have candidly stated that the matter has been amicably settled amongst them without any contaminating influence exercised by any one and it was only after getting satisfied about its voluntary nature, the statements of the parties were recorded, the copies of the same are attached herewith for the kind perusal.

Query No. 4: Whether the accused persons are involved in any other case or not?

Submission: *To this, I may submit that as per the report of the investigating officer of 16.02.2019, apart from the present FIR, no other FIR has been registered against any of the six accused”*

Learned State counsel submits that she has no objection if the present FIR 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 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.347 dated 03.08.2017, under Section 25 of Arms Act, 1959 and Sections 147, 148, 149, 323, 324, 506 of IPC, registered at Police Station Sohna, District Gurugram (Annexure P-1), and FIR No.345 dated 03.08.2017, under Section 25 of Arms Act, 1959 and Sections 147, 148, 149, 323 of IPC, registered at Police Station Sohna, District Gurugram (Annexure P-2) and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

14.11.2022
anju

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