

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

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CRM-M-55463-2022

Date of Decision: 22.12.2022

Devinder Sandhu and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kulvinder Jit Singh Rupal, Advocate for the petitioners

Mr. Digvijay Nagpal, AAG, Punjab

Ms. A.S Pavit, Advocate for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The petitioners through instant petition under Section 482 Cr.P.C, on the basis of Compromise dated 11.02.2021 (Annexure P-2), are seeking quashing of FIR No.15 dated 05.01.2021 (Annexure P-1) under Sections 420 and 120-B of IPC and Section 24 of Immigration Act, registered at Police Station, Division No.8, Ludhiana and all consequential proceedings arising therefrom.

In terms of order dated 01.12.2022 of this Court, Chief Judicial Magistrate, Ludhiana has submitted his report dated 19.12.2022. The relevant extracts of the report are as below:-

“5. In view of the statements of complainant/respondent No.2 Hardeep Kaur and accused/petitioners namely Devinder Sandhu and Baljit Singh Sandhu, as detailed hereinabove, it emerges on record that the matter has been compromised between them with the intervention of respectable and well wishers, out of their free Will, voluntarily and without any pressure, threat, undue influence or coercion from any quarter.

6. It is further respectfully submitted that in view of statement of Investigation Officer ASI Sukhraj Singh, No.3620/Ldh. P.S. Div. No.8, Ludhiana, it emerges on record that the present case bearing FIR No.15 dated 05.01.2021, Under Section 420, 120-B IPC, 24 of Immigration Act, Police Station Div. No.8, Ludhiana was got registered by complainant Hardeep Kaur against two persons namely Devinder Sandhu son of Baljit Singh Sandhu and Baljit Singh Sandhu son of Gulzar Singh. He has further stated that except both these two

accused persons, no other person is involved as an accused in the present matter and challan/report Under Section 173(2) of Cr.P.C has not been presented before the court till date and both the accused persons have not been arrested in the present FIR. He has further stated that he accused persons are also involved in cases i.e. case bearing FIR No.01 dated 01.01.2021, Under Section 420, 120-B IPC P.S. Div. No.8, Ludhiana registered against both the accused persons namely Devinder Sandhu and Baljit Singh Sandhu and FIR No.4 dated 01.01.2020, Under Section 420, 120-B IPC , P.S. Div. No.8 Ludhiana registered against accused Baljit Singh Sandhu. He has further stated that both the accused have not been declared as proclaimed offenders in any of the cases. The copy of statement of ASI Sukhraj Singh is also enclosed herewith.”

Learned State counsel and learned counsel for respondent No.2 would submit that they have no objection, if the present FIR and subsequent 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 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.³ 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."

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. There appears to be no chance

of conviction, thus, 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.15 dated 05.01.2021 (Annexure P-1) under Sections 420 and 120-B of IPC and Section 24 of Immigration Act, registered at Police Station, Division No.8, Ludhiana and all consequential proceedings arising therefrom, are quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

22.12.2022
Mohit Kumar

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