

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

CRR-3017-2019

Reserved on: 17.03.2022

Pronounced on: 19.04.2022

Aman Singh @ Sonu

...Petitioner

Versus

State of Punjab

...Respondent

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

Present: Mr. J.S. Mahal, Advocate
for the petitioner.

Mr. Sukhbeer Singh, AAG Punjab.

Mr. Gaganpreet Singh, Advocate for
For Mr. Paras Jagga, Advocate for
the complainant.

VINOD S. BHARDWAJ J.

The present revision petition has been filed raising challenge to the judgment dated 23rd November 2016 passed by the Judicial Magistrate Ist Class, Gurdaspur, in case FIR No. 96 of 03.12.2011 registered at Police Station Kalanaur for offence under Section 420 IPC, thereby convicting the petitioner for the said offence and sentencing him to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs. 2500/- as well as against the judgment dated 07.08.2019 passed by the Court of Additional Sessions Judge, Gurdaspur, dismissing the appeal filed by the petitioner.

bearing CRM-30642 of 2021 was moved on behalf of the petitioner under Section 320 for compounding of the offences. It was pointed out that the dispute in question has been amicably resolved amongst the parties with the intervention of the respectables from both the sides and the complainant has received the entire amount of disputed consideration to the tune of Rs. 2,00,000/- that was allegedly paid by the complainant to the petitioner. The brother of the petitioner repaid the said amount to the complainant and there is no surviving ill will or grudge between the parties. The said application was duly supported by the compromise deed dated 21st April 2021.

3. Pursuant to the said application, the parties were directed to appear before the Magistrate and to get their statement recorded vide order dated 06.10.2021. The trial Court was also directed to send a report about the validity and genuineness of the compromise effected between the parties. A report vide memo No. 964 dated 19.10.2021 has been sent by the Judicial Magistrate Ist Class, Gurdaspur, to the following effect:

“It is further submitted that on 14.10.2021 both the parties have appeared for recording their statements qua the factum of compromise. Statements of both the parties were recorded regarding compromise.

It is further submitted that in view of the statements recorded by both the parties, this Court is satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence.”

4. It is evident from the perusal of the same that the parties have amicably resolved the dispute between themselves. Further a full Bench of this Court in the matter of

& Haryana High Court): 2007 (3) RCR (Criminal) 1052 has affirmed the power of the Court under Section 482 Cr.P.C. to quash the proceedings to secure ends of justice.

The relevant extract of the judgment in the matter of **Kulwinder Singh (supra)** is reproduced hereinafter:-

“(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.”

5. 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 other versus State of Gujarat and another**” (2017) 9 SCC 641’.

6. The Hon’ble Supreme Court has also held in the matter of ‘***Ramgopal and Another versus State of Madhya Pradesh, 2021 SCC Online SC 834***’ that the matters which can be categorized as personal in nature or 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 observations of the Hon’ble Supreme Court are extracted as under:-

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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)*.*

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“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.”*

7. The Hon'ble High Court of Punjab and Haryana has in the matter of ***Suraj Singh Vs. State of Punjab and another passed in CRM-M-37714-2021, decided on 05.04.2022*** followed the principles laid down in the judgment of

Ramgopal (supra) and quashed the criminal proceedings based on compromise effected between the parties during pendency of appeal/Revision. Relevant paras are reproduced below:

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Keeping in view the law laid down in the abovesaid judgment, more so, the judgment of the Hon'ble Supreme Court of India in Ramgopal & Anr's case (supra), the relevant parameters for consideration as laid down by the said judgment, would be considered by this Court for adjudicating the present matter. Firstly, the alleged occurrence involved in the present case can be categorized as a purely personal / criminal act of private nature. Secondly, the injuries which have been caused are not dangerous to life and do not appear to exhibit an element of mental depravity or commission of an offence of such a serious nature, that quashing the criminal proceedings of such like cases would override public interest. Thirdly, in view of the injuries and the offence, it would be immaterial that the petitioners have been convicted by the Principal Magistrate, Juvenile Justice Board, Ludhiana. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Principal Magistrate, Juvenile Justice Board, Ludhiana. Fifthly, the occurrence took place in the year 2018 and there is nothing to show that any untoward incident at the hands of the petitioner has taken place after the same. Sixthly, the object of administration of the criminal justice system would remain unaffected on acceptance of the said amicable settlement between the parties and /or resultant acquittal of the petitioner.

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8. The Hon'ble Supreme Court in the matter of **Deva Ram Vs. State of Rajasthan**

Punjab & Haryana in *Kuldeep Singh Vs. Vijay Kumar and another, in CRR 930 of 2017, decided on 09.03.2017* has also held that compounding of offences based on compromise between the parties is allowed with the leave of the Court for quashing of criminal revision proceedings.

8. The Hon'ble Supreme Court allowed quashing of proceedings even at the stage of the proceedings before Supreme Court. The following circumstances are thus noticed, in the light of precedents as would justify the invocation of the jurisdiction under Section 482 Cr.P.C.

(i) That the offence in question relates to a private monetary dispute and does not fall within the prohibited categories of offences as per the precedent judgments.

(ii) That the FIR in question was registered in the year 2011 and the petitioner has already faced incarceration of a criminal trial for a period of more than 10 years. The petitioner was in his early 30's at the time when the case in question was registered. He is now in his late 40's and continued incarceration is likely to cause serious scar on his social status and acceptability.

(iii) That the matter has already been amicably resolved between the parties and brother of the petitioner has already repaid the entire amount to the satisfaction of the complainant, thus, putting an end to the grudge and ill will for the sake of peaceful co-existence.

(iv) It is also evident that the petitioner has already undergone an actual

custody of more than 4 months against the total sentence of 3 years. The continued imprisonment of the petitioner despite settlement of the dispute between the parties is not likely to advance the cause of justice.

(v) The offence in question cannot be said to be heinous or as an offence that would be shocking to the conscience of the society or public at large.

It can also not be termed as one shocking to the conscience of the Court;

(vi) Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to sub-serve any large public interest;

(vii) Parties have faced the agony of a trial for a long duration and interest of justice is well served.

(viii) Parties do not suffer any criminal antecedents and have not indulged in any such or similar case during the pendency of the case or after registration of the FIR.

(ix) The offence in question does not amount to mental depravity and the parties have voluntarily entered into a compromise.

(x) The offence under Section 420 IPC is compoundable under Section 320 Cr.P.C. at the behest of person cheated. The victim has no objection to the compounding of the offence.

9. In view of the report of the Judicial Magistrate Ist Class, Gurdaspur and the principles laid down by the Apex Court in Gian Singh Vs. State of Punjab and

Pradesh 2021 SCC Online 834 and also by the Full Bench of this Court in **Kulwinder Singh and Others Vs. State of Punjab and another, 2007 (3) RCR (Criminal) 1052**, the instant petition is allowed. The offence in case FIR No. 96 of 03.12.2011 of Police Station Kalanaur under Section 420 IPC is allowed to be compounded in exercise of the powers under Section 320 read with Section 482 Cr.P.C. in light of the compromise dated 21.04.2021. The judgment of conviction dated 23.11.2016 passed by the Judicial Magistrate Ist Class, Gurdaspur and subsequent judgment of Additional Sessions Judge, Gurdaspur in criminal appeal No. 95 of 30.11.2016, decided on 07.08.2019 are hereby set aside. However, the same would be subject to payment of costs of Rs. 10,000/- to be deposited by the petitioner with the '**Poor Patients Welfare Fund**' of the '**Postgraduate Institute of Medical Education and Research (PGIMER), Chandigarh**', within one month from receipt of certified copy of this order.

Petition is allowed.

19.04.2022

Ajay Goswami

(VINOD S. BHARDWAJ)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No