

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

239

CRM-M-61564-2018

Date of Decision: 12.12.2022

Santosh Sharma and Another

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Kanwaljeet Singh Derabassi, Advocate
for the petitioners

Mr. Digvijay Nagpal, AAG Punjab

Mr. Rohit Sapehiya, Advocate, for
Mr. Kitender Kumar Mishra, Advocate
for respondent No.2

JAGMOHAN BANSAL, J. (Oral)

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.0377 dated 03.11.2017 (Annexure P-1) under Sections 406, 420 and 120-B of the IPC, registered at Police Station Zirakpur, District S.A.S. Nagar, Mohali, and all subsequent proceedings arising therefrom, on the basis of Compromise Deed dated 15.12.2018 (Annexure P-2).

The parties vide order dated 14.05.2019 were directed to file affidavit with respect to their stand qua compromise. Affidavit dated 08.12.2022 of Santosh Sharma/petitioner and affidavit of Narinder Kumar Mishra/respondent No.2 is taken on record. The Registry is directed to tag the same at the appropriate place.

Learned counsel for private respondent submits that complaint qua offence under Section 138 Negotiable Instruments Act has already been withdrawn.

In terms of order dated 20.12.2018 of this Court, JMIC, Dera Basi, has submitted her report dated 29.01.2019. The relevant extracts of the report as below:-

“From the perusal of above statements, it is seen that the complainant and accused persons, with the intervention of the respectable have compromised the matter with each other. It is because of this reason, they with their own free will and without any threat or coercion got recorded their statements in the Court. The original compromise affidavit is lying before the Hon’ble High Court and photocopy of the same is Ex.CX. As per the record, vide order dated 20.12.2018, as desired by your goodself, the following point wise opinion is given as under:-

- 1. As per the FIR, there are two persons namely Pankaj Sharma and Santosh Sharma arrayed as accused in the present case.*
- 2. In this case no accused is declared proclaimed offender as no remand papers are pending in this Court.*
- 3. I am satisfied that the compromise is genuine, voluntary and without any undue pressure or threat from anyone.*
- 4. There is no case i.e. FIR or any other dispute is pending between the parties, in view of the joint statement recorded by the accused persons.*
- 5. As per statement of Investigating Officer HC Rameshwar Dass No.287, S.A.S Nager, Mohali, PS Zirakpur recorded today in the Court there is only one complainant Narinder Kumar Mishra in the present FIR.”*

Learned State counsel, on instructions from ASI Jaswinder Singh, would submit that cancellation report is ready and State has no objection if the present FIR and all subsequent proceedings are quashed.

Learned counsel for private respondent would also submit that he has no objection if the present petition is allowed.

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. 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, 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. 0377 dated 03.11.2017 (Annexure P-1) under Sections 406, 420 and 120-B of the IPC, registered at Police Station Zirakpu, District

S.A.S. Nagar, Mohali, and all subsequent proceedings arising therefrom, are quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

12.12.2022
Mohit Kumar

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