

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

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**CRM-M-52529-2019
Date of decision: 07.03.2022**

TARUN SHARMA

....Petitioner

Versus

STATE OF HARYANA AND OTHERS

...Respondents

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

Present : Mr. Yash Dev Kaushik, Advocate
for the petitioners.

Mr. Kanwar Sanjiv Kumar, AAG Haryana.

Ms. Kusum Raj, Advocate
for the respondent No.2 and 3/complainant.

VINOD S. BHARDWAJ. J. (ORAL)

By means of the instant petition, the jurisdiction of this Court under Section 482 Cr.P.C. has been invoked seeking quashing of FIR No.390 dated 24.06.2016 under Sections 447, 448 and 506 of the IPC registered at Police Station Sarai Khawaja, District Faridabad and all other consequential proceedings arising therefrom, on the basis of compromise dated 15.10.2019 (Annexure P-2) entered between parties.

2 Vide order dated 09.12.2019 of this Court, the parties were directed to appear before the learned trial Court/Illaq Magistrate on 15.12.2019 to get their statements recorded regarding the compromise arrived at between the parties and a report in this regard was called for.

3. Pursuant to the said order, report has been received from the learned Additional Chief Judicial Magistrate, Faridabad vide Memo No.17 dated 09.01.2020. The relevant extracted of the report is reproduced as under:-

'1.In the FIR it is stated that the Tarun Sharma came on the spot with 8-10 other boys with Lathi and Dandas. Except for

accused Tarn Sharma, no other person is mentioned by name in the FIR and the report under Section-173 Cr.P.C. After investigation is also submitted only against accused Tarun Sharma and no statement regarding the involvement of the 8-10 other boys is there in the report under Section -173 Cr.P.C.

- 1. There is no accused in the instant case proclaimed as offender.*
- 2. **The undersigned is satisfied that the compromise Ex.D1 has been entered into by the complainants with the accused genuinely, voluntarily and without any coercion or inducement.***
- 3. As per the statement of the investigating officer Sh. Rakesh Kumar, ASI recorded before the Court, accused Tarun Sharma is also involved in criminal cases arising out of FIR No.103 dt. 25.02.2015 U/Ss 447/427/506 IPC P.S.Sarai Khwaja, Faridabad, FIR No.389 dt. 24.06.2016 U/Ss 447/380 IPC P.S.Sarai Khwaja, Faridabad and FIR No.417 dt.06.07.2016 U/Ss 447/448 IPC P.S.Sarai Khawaja, Faridabad.*
- 4. The instant case is at the stage of prosecution evidence and the evidence of Kailash Chand Dhayani (PW1) ASI Rakesh Kumar (PW2) and Radhey Shyam (PW3) has already been recorded.*
- 5. As per the statement of the Investigating officer recorded before the court, there are only two victims/complainants namely Kailash Chand Dhayani and Arvind Kumar Yadav.'*

4. Learned State counsel does not dispute the factum of the compromise amongst the parties and does not have any serious objection to the resolution of the dispute amongst the parties.

5. Ms. Kusum Raj, Advocate appears on behalf of respondent Nos.2 and 3 and reiterates the settlement and her concurrence to the FIR and all the other consequential proceeding being quashed.

6. The Full Bench of this Court in the matter of “**Kulwinder Singh and**

others versus State of Punjab and another” reported as ***(Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052*** has been observed as under:

'(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.

7. 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 others versus State of Gujarat and another*' (2017) 9 SCC 641', the same are extracted as under:

16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6 In the exercise of the power under Section 482 and

while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

8. It is evident that in view of the amicable resolution of the issues amongst the parties, no useful purpose would be served by continuation of the

proceedings. The furtherance of the proceedings is likely to be a waste of judicial time and there appears to be no chances of conviction.

9. The Hon'ble Supreme Court has held in the matter of '**Ramgopal And Another Vs State of Madhya Pradesh, 2021 SCC Online SC 834**', that the matters which can be categorized as personal in nature or in the matter 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 observation of the Hon'ble Supreme Court is extracted as under:-

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 extra-ordinary 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.

20. Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that: Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal

proceedings of private nature; Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest; Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed; Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s); Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties; Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and Seventhly, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.

10. A perusal of the FIR shows that the dispute pertains to demolition of a boundary wall along with plot with the help of men and machine. The nature of dispute is largely civil and does not shock the conscious of the Court or cause shock waves in the society. The nature of the offence do not fall under the category of heinous offence. The parties have not indulged in any other untoward incident even though the FIR in question happens to be of 2016 year, despite a lapse of nearly 06 years since the registration of the FIR. Even otherwise, the

report filed by the Illaqa Magistrate shows that the case is still at initial stages and only 03 witnesses have been recorded so far.

11. In view of the report of the learned Additional Chief Judicial Magistrate, Faridabad and the principles laid down by the Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303**, as well as **Ramgopal And Another Vs State of Madhya Pradesh 2021 SCC Online SC 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 aforesaid FIR No.390 dated 24.06.2016 under Sections 447, 448 and 506 of the IPC registered at Police Station Sarai Khawaja, District Faridabad and all other consequential proceedings arising therefrom, **are hereby quashed** in view of compromise dated 15.10.2019 (Annexure P-2). However, the same would be subject to payment of costs of Rs. 10,000/- to be deposited by the petitioners 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.

(VINOD S. BHARDWAJ)
JUDGE

March 07, 2022

S.Sharma(syr)

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