

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-2971-2022

DATE OF DECISION: APRIL 20, 2023

PANKAJ KUMAR

...PETITIONER

VERSUS

KAUSHALYA DEVI & ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA.PRESENT: MR. PARVESH SACHDEVA, ADVOCATE
FOR THE PETITIONER.MS. SEENU RAVISH, ADVOCATE
FOR MS. DIVYA NARULA, ADVOCATE
FOR RESPONDENT NO.1.

MR. MADHUR SHARMA, AAG, PUNJAB.

DEEPAK MANCHANDA, J.(ORAL)

This petition has been filed under Section 482 Cr.P.C. praying for the quashing of Complaint case No.RBT-27-1 dated 19.11.2012, under Section 420/467/468/471/120-B IPC, vide which he was convicted by the Judicial Magistrate 1st Class, Fazilka vide judgement of conviction dated 22.3.2017 and sentenced to undergo R.I. for 2 years and the appeal thereof is pending before the Addl. Sessions Judge, Fazilka, on the basis of compromise dated 1.12.2021 (Annexure P-4).

Ms. Seenu Ravish, Advocate has put in appearance on behalf of Ms. Divya Narula, Advocate for respondent No.1-complainant and admitted the factum of compromise. On 4.2.2022, this Court after issuance of Notice of motion had directed the private parties to appear before the Illaqa Magistrate/trial Court (as the case may be) to get recorded their statements and trial court would satisfy itself about the authenticity of the compromise

and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

In pursuance of the said order, the report forwarded vide No.120 dated 15.2.2022, has been submitted by the Addl. Sessions Judge, Fazilka, which is on record. The relevant part of the report is reproduced hereinbelow:-

“Keeping in view the statements so suffered by the respondent-complainant as well as accused-petitioner, it seems that the compromise so effected between the parties is genuine without any sort of undue influence or coercion; the present complaint was filed by complainant Kaushalya Devi against accused Pankaj Kumar, Puran Singh Nambardar and Bakshish Singh; as per statement made by appellant-accused Pankaj Kumar, it is clear that he has never been declared proclaimed offender nor any other FIR is pending or registered against him and; compromise deed Ex.C1 has been signed/thumb market by all the concerned.”

A perusal of the said report would show that statements of the concerned persons have been recorded in this case, who have stated that the matter has been compromised and complainant/respondent No.2 has no objection in case the FIR in question is quashed. They have further stated that the said compromise is genuine, voluntary, and without any coercion or undue influence.

Learned counsel for the petitioner has submitted that there is no other FIR against him nor he has been declared as proclaimed offender.

Having heard learned counsel for the parties and after perusing

the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant, post conviction, and the parties have decided to bury their hatchet and compromise the dispute amicably. Therefore to prevent the abuse of the process of law and to secure the ends of justice, the aforesaid complaint deserves to be quashed under Section 482 of Cr.P.C., which has the magnitude of the inherent jurisdiction of the High Court under it and this Court has the inherent power under Section 482 of Cr.P.C. to quash the same even when the offences are non-compoundable, with the driving force being the object of securing ends of justice.

As per the Full Bench judgment of this Court in **Kulwinder Singh and others Vs State of Punjab, 2007 (3) RCR (Criminal) 1052**, it is held that:-

“27. 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 the exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be it in the shape of Section 320(9) of the Criminal Procedure Code, or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code.

28. The compromise, in modern society, is the sine qua non of harmony and orderly behavior. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a

compromise which, in turn, enhances social amity and reduces friction, then it truly is the "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 Criminal Procedure Code 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.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Criminal Procedure Code is to be exercised Ex-Debitis Justitia to prevent abuse of the process of Court. There can neither be an exhaustive list nor the defined parameters 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 Criminal Procedure Code has no limits and the Court is a vital and extraordinary effective instrument to maintain and control social order and play a 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 endeavor to give full effect to the same unless a such compromise is abhorrent to the lawful composition of the society or would promote savagery.”

Hon'ble the Apex Court in the case of **Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543**, had also observed:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercising of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offenses of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and offender in relation to the

offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The view taken by the Hon'ble Supreme Court regarding

quashing of FIRs where compromise is struck, post-conviction, has been discussed in Ram Gopal & Anr. V/s State of Madhya Pradesh, 2021(4)

RCR (Criminal) 322, relevant of which is as under:-

*“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)*.*

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20. *Having appraised the afore-stated parameters 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 unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.”

In view of the report of Addl. Sessions Judge, Fazilka, the compromise dated 1.12.2021 (Annexure P-4) and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Consequently, and for the reasons stated above, read with the compromise dated 1.12.2021 (Annexure P-4), this Courts finds it appropriate to invoke the power under Section 482 Cr.P.C. and quash the criminal proceedings in the aforesaid case.

As a sequel thereto, the petition is allowed and all offences emanating out of Complaint No.RBT-27-1 dated 19.11.2012, under Section 420/467/468/471/120-B IPC leading to conviction and sentence of the petitioner by the trial Court stand quashed qua the petitioner only and consequently, the judgment of conviction and order of sentence passed by the trial court dated 22.3.2017, are set aside as well.

April 20, 2023
Gulati

(DEEPAK MANCHANDA)
JUDGE

Whether Reportable : Yes/No
Whether Speaking/Reasoned : Yes/No