

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

220

1)

CRM-M-9419-2021

Decided on : 27.01.2023

Gurvinder Singh @ Gaurav and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

2)

CRM-M-9533-2021

Ravinder Singh and others

... Petitioner(s)

Versus

State of Punjab and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Ravi Gakhar, Advocate
for the petitioners (in CRM-M-9419-2021)
for respondents No.2 & 3 (in CRM-M-9533-2021).

Mr. Gurpreet Jayia, Advocate
for the petitioners (in CRM-M-9533-2021)
for respondents No.2 & 3 (in CRM-M-9419-2021).

Mr. Anmol Singh Sandhu, AAG, Punjab.

SANJAY VASHISTH, J. (Oral)

1. This order shall dispose of CRM-M-9419-2021 and CRM-M-9533-2021, as the same have emanated out of same occurrence and prayer made therein is for quashing of criminal proceedings on the basis of compromise dated 10.02.2021, entered into between the affected parties.

2. It is a case of version and cross-version. Petitioners in CRM-M-9419-2021 are seeking quashing of FIR No. 0099, dated 13.04.2020, under Sections 323, 506, 509, 148, 149 of IPC (added later on Section 354-D of IPC), registered at Police Station Sirhind, District Fatehgarh Sahib, and all

subsequent proceedings arising therefrom, whereas, petitioners in CRM-M-9533-2021 are seeking quashing of cross case vide General Diary No. 062, dated 13.04.2020, under Sections 341, 323, 506, 148, 149 of IPC, in FIR No. 0099, dated 13.04.2020, under Sections 323, 506, 509, 148, 149 of IPC (added later on Section 354-D of IPC), registered at Police Station Sirhind, District Fatehgarh Sahib, and all subsequent proceedings arising therefrom, on the basis of compromise dated 10.02.2021 (Annexure P-3), arrived at between the parties.

3. When both the petitions came up for consideration before the co-ordinate Bench of this Court, vide order dated 10.08.2022, private parties were directed to appear before learned Illaqa Magistrate for getting their respective statements recorded with regard to compromise dated 10.02.2021. However, vide order dated 16.11.2022, the co-ordinate Bench of this Court further directed to Ld. Chief Judicial Magistrate to record the statement of the Investigating Officer of this case.

4. In compliance thereof, the affected parties did appear before learned Chief Judicial Magistrate, Fatehgarh Sahib, and got recorded their respective statements with regard to the compromise. Learned Court below sent its separate reports dated 15.11.2022, and 01.12.2022, alongwith statements of affected parties. Operative parts of the said reports are as under:-

Report dated 15.11.2022

“After going through the statements suffered by the parties, this Court is of the view that a genuine and valid compromise has been effected between the parties which is without any pressure or undue influence of any manner upon either of the party. As per the statements suffered by the above referred parties, neither any proceedings regarding proclaimed offender is pending against any of the accused in this case nor the parties are involved in any other

criminal case. All the parties have been duly identified by their respective counsels.

The statements suffered by the above referred parties before this case referred above are hereby enclosed herewith for your Honour's kind perusal, please."

Report dated 01.12.2022:

"From the above statement of Investigating Officer so recorded by me, the report, as desired, is being submitted hereunder:-

- (i) *As per the statement of ASI Amarjit Singh, Investigating Officer, none of the person, arrayed as accused in above noted FIR No. 99, dated 13.04.2020, Police Station Sirhind as well as none of the person arrayed as accused in above noted DDR No.62 dated 13.04.2020, Police Station Sirhind, is/was declared as Proclaimed Offender nor they are involved in any other case except the present case, registered at Police Station Sirhind.*

The report as directed by the Hon'ble High Court, is accordingly being submitted, for kind perusal."

5. Learned counsel for the private parties state that incident in the present case occurred at the spur of moment, on a trivial issue, and on the basis of version and cross version criminal proceedings were initiated against both the sides, who are neighbours and residents of same village. Due to intervention of the respectable and elderly people of the society, the matter has been resolved and private parties have effected a compromise dated 10.02.2021. At present, there remains no dispute amongst the private parties. Learned counsel further submit that in view of the compromise so effected between the private parties, pendency of the FIR No. 0099, dated 13.04.2020, and cross case bearing GDR No. 062, dated 13.04.2020, and consequential proceedings emanating therefrom would be sheer abuse of the process of law.

6. Learned counsel for the State after going through the statements

and the report received from learned Court below, very fairly admits that the private parties have resolved their dispute and effected a compromise. He further submits that he has no objection if criminal proceedings are quashed on the basis of the compromise.

7. I have heard learned counsel for the parties and perused the record with their able assistance.

8. The Full Bench of this Court in the matter of **Kulwinder Singh and others v. State of Punjab and another**, 2007 (3) RCR (Criminal) 1052, has 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 others**, 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."*

9. The said legal principles were also approved by Hon'ble the Supreme Court in the matter of **Gian Singh v. State of Punjab and another**, (2012) 10 SCC 303. Furthermore, broad principles for exercising the powers under Section 482 were summarized by Hon'ble the Supreme Court in the matter of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another**, (2017) 9 SCC 641.

10. Hon'ble the Supreme Court has held in the matter of **Ramgopal and another v. 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 Hon'ble the 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 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.”

11. After hearing learned counsel for the parties and going through the material available on record, this Court finds that there appears to be substance in the submission of learned counsel that pendency of the present criminal litigation would be abuse of process of law since chances of conviction of accused persons are bleak in view of the compromise so effected between the private parties.

12. The report alongwith statements of the affected parties received from learned Court below would reveal that the aggrieved persons have genuinely effected a compromise and they have no objection if the impugned criminal proceedings are quashed.

13. Keeping in view totality of the facts and circumstances of the case and taking into consideration the ratio of the judgments in the cases of

Gian Singh (supra), Ramgopal (supra) and Kulwinder Singh (supra), these petitions are allowed. Consequently, FIR No. 0099, dated 13.04.2020, under Sections 323, 506, 509, 148, 149 of IPC (added later on Section 354-D of IPC), registered at Police Station Sirhind, District Fatehgarh Sahib, and all subsequent proceedings arising therefrom, and cross case vide General Diary No. 062, dated 13.04.2020, under Sections 341, 323, 506, 148, 149 of IPC, in FIR No. 0099, dated 13.04.2020, under Sections 323, 506, 509, 148, 149 of IPC (added later on Section 354-D of IPC), registered at Police Station Sirhind, District Fatehgarh Sahib, and all subsequent proceedings arising therefrom, are hereby quashed, in view of compromise dated 10.02.2021.

14. These petitions stand disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

January 27, 2023

J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No