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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr.No.253

Case No. : CRR-454-2023

Date of Decision : May 16, 2023

Sukhjinder Singh Petitioner
vs.
State of Punjab and another Respondents

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

* * *

Present : Mr. Paramjit Singh Brar, Advocate
for the petitioner.

Mr. Sarabjit Singh Cheema, DAG, Punjab.

Mr. Gagandeep Singh Simble, Advocate
for respondent no.2.

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GURBIR SINGH, J. :

This revision petition has been filed against the judgment dated 19.01.2023 passed by learned Additional Sessions Judge, Faridkot, whereby appeal filed by the revisionist (petitioner) against the judgment of conviction and order of sentence dated 15.10.2019, whereby the petitioner was convicted under Section 138 of the Negotiable Instruments Act in case bearing NACT/313/2017, by Judicial Magistrate Ist Class, Faridkot and sentenced to undergo RI for two years and also to pay fine of Rs.5,000/-. Further, in default of payment of fine, he was sentenced to undergo SI for 30 days.

On the previous date of hearing, learned counsel for respondent no.2 appeared and it was brought to the notice of this Court that the parties

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have entered into compromise. Accordingly, parties were directed to appear before the learned Trial Court/Duty Magistrate, as the case may be, for getting their statements recorded regarding the compromise. The Trial Court was also directed to send the report in this regard.

In compliance of the aforesaid order of the previous date, report from Judicial Magistrate Ist Class, Faridkot, along with statements of both the parties, duly forwarded by learned District and Sessions Judge, Faridkot, has been received. A perusal of the same shows that both the parties have admitted the effectiveness of compromise and the same was found to be genuine, voluntary, out of free will and without any threat, pressure or undue influence.

The powers under Section 482 Cr.P.C. can be exercised in such like situation in order to prevent unnecessary vagaries of criminal trial to be faced by the parties, when there are remote chances of conviction of the accused. The compromise in question is found to be fully in consonance with the directions issued by the Court in **Kulwinder Singh and others vs. State of Punjab and another – 2007 (3) RCR 1052** and **Gian Singh vs. State of Punjab and another – 2012 (4) RCR (Criminal) 543**.

In **Parbatbhai Aahir vs. State of Gujarat – (2017) 9 SCC 641**, a three Judges Bench of Hon'ble Supreme Court, laid down the broad principles for quashing of FIR, which are reproduced as under :-

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

16(i) *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(ii) *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(iii) *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(iv) *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(v) *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(vi) *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(vii) *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(viii) *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(ix) *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(x) *There is yet an exception to the principle set out in propositions (viii) and (ix) 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.”*

In case **Sube Singh and another vs. State of Haryana and another** reported as **2013 (4) RCR (Criminal) 102**, it is held that the High Court has power to quash the criminal proceedings at any stage, to secure the ends of justice.

In view of what has been discussed in the preceding paragraphs, since the parties have entered into compromise and the same has been proved to be genuine, therefore, this petition is allowed. The judgment of conviction and order of sentence dated 15.10.2019 passed by learned Judicial Magistrate Ist Class, Faridkot is set aside and the petitioner is acquitted of the charges framed against him in this case. However, the petitioner is burdened with costs of Rs.15,000/- to be deposited with the concerned DLSA within 15 days from the date of receipt of certified copy of this order and proof in the form of receipt thereof be placed before learned

Trial Court, showing deposit of the above-mentioned amount.

It is made clear that in case of default in payment of costs, this order shall automatically stand vacated.

May 16, 2023
monika

(GURBIR SINGH)
JUDGE

Whether speaking/reasoned ?	Yes.
Whether reportable ?	Yes/No.