

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

CRM-M-7033-2020

Date of Decision:17.01.2023

HARISH KUMAR AND ORS

..... Petitioners

Versus

STATE OF HARYANA AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Himanshu, Advocate
for the petitioners.

Ms. Priyanka Sadar, AAG, Haryana.

JAGMOHAN BANSAL, J. (Oral)

This petition is filed under Section 482 Cr.P.C. for quashing of FIR No. 490, dated 20.04.2018, under Sections 498A, 323, 506 and 354 of IPC, 1860 registered at Police Station Jagadhri City, District Yamuna Nagar, (Annexure P-1), and all other consequential proceedings arising therefrom, on the basis of compromise/ affidavit dated 24.10.2019 (Annexure P-2).

In terms of order dated 17.02.2020 of this Court, learned Additional Chief Judicial Magistrate, Yamuna Nagar at Jagadhri has submitted his report dated 20.05.2020. The relevant extracts of the report are as below :-

“i) In the abovesaid FIR, SI Satpal Singh no.416, Investigating Officer (IO) of this case was called and his statement was recorded by this court on 18-5-2020. Statement of IO is Annexure-I (Annexed herewith in original). As per statement of IO, there are total five accused persons.

ii) *As per statement of SI Satpal Singh IO, none of the accused persons has been declared as proclaimed offender in the present case.*

ii) *As per report of Criminal Ahlmad, the present case is fixed for prosecution evidence and till now no prosecution witness has been examined in the present case.*

iv) *In the present case complainant parties i.e. (1) Neeru (complainant), (2) Diverson (father of complainant) and (3) Usha (mother of Complainant) and accused persons i.e. (1) Harish Kumar, (2) Bachan Singh (3) Rammi Devi (4) Maya and (5) Noyal Masih have appeared before the court of undersigned on 16-3-2020 and got recorded their separate statements. Joint statement of complainant parties is Annexure- II and joint statements of accused persons is Annexure-III (Annexed herewith in original).*

As per statement of complainant party matter between the complainant and accused persons has been compromised and complainant and accused Harish Kumar have filed divorce petition before the competent court of law by mutual consent and their first motion statement has already been recorded. It has been stated by the complainant party that matter has been compromised with their own free will, voluntarily and Without any pressure of any kind. Now, there is no dispute between the complainant and accused and complainant party has no objection if the FIR is quashed against all the accused. In the similar manner, accused party has given statement that matter between them has been compromised voluntarily out of their own free will and without any pressure of any kind and accused party has requested

that FIR be quashed against all the accused. From the statements of complainant party and accused party, it appears that matter between both the parties has been compromised voluntarily without any pressure of any kind from any corner and compromise effected between them is genuine one.

It is further to be noted that complainant party was identified by Shri Harvinder Aneja, Advocate and accused party was identified by Shri Dinesh Sharma, Advocate. Had there been any pressure of any kind on any of the persons, who had given statements before this court, then he or she could bring to notice of this court about that fact, but none of the persons, who had given statements on 16-3-2020 had stated that he or she was under pressure of any kind! Had the complainant party or accused party been under any pressure and had they been hesitant to bring to the notice about this fact to this court, they could at least bring to the notice about the pressure in the knowledge of their respective counsels, but even the respective counsels of both the parties have not stated before this court that any of the persons/party is under pressure of any kind.

In these circumstances, it is concluded that the statements of the parties are bona fide and are not result of any threat, duress or coercion in any manner and hence compromise effected between the parties is genuine, voluntary and without any coercion or undue influence and is valid one.”

Statement of Investigating Officer was recorded by Trial Court and said statement is part of report dated 20.05.2020 submitted by learned Trial Court.

Learned State counsel on instruction from Investigating

Officer submitted that she has no objection if FIR and consequent proceedings in view of compromise are quashed.

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 320Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320Cr.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 320Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482Cr.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 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 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.³ and Laxmi Narayan (Supra).

14. 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 between 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 allowed.

FIR No. 490, dated 20.04.2018, under Sections 498A, 323, 506 and 354 of IPC, 1860 registered at Police Station Jagadhri City, District Yamuna Nagar, (Annexure P-1), and all other consequential proceedings arising therefrom are quashed qua the petitioner(s).

(JAGMOHAN BANSAL)

JUDGE

17.01.2023

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