

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240-1

CRM-M-7759-2019 (O&M)
Date of Decision: 11.05.2023

Manisha and another ... Petitioner(s)
Versus
State of Punjab and another ...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Akashdeep Singh, Advocate
for the petitioner(s).

Mr. Virat Rana, AAG, Punjab.

Mr. J.S. Jaidka, Advocate for respondent No. 2.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
8	21.02.2013	Bhadaur, District Barnala	306 IPC

The petitioners, arraigned as accused in the above captioned FIR, have come up before this Court under Section 482 CrPC for quashing of the FIR and all consequential proceedings based on a compromise with the aggrieved person(s).

2. During the pendency of the petition, the accused and the aggrieved persons have compromised the matter, and its copy is annexed with this petition as Annexure P-2.

3. After that, the petitioners came up before this Court to quash the FIR, and in the quashing petition, the aggrieved persons have been impleaded as respondents.

4. On 28.03.2019, the complainant/aggrieved person i.e. Respondent no.2-Somnath appeared before the learned Additional Sessions Judge, Barnala and stated that they would have no objection if the court quashes this FIR and consequent proceedings. As per the concerned court's report dated 28.03.2019, the parties

consented to the quashing of FIR and consequent proceedings without any threat or coercion.

ANALYSIS & REASONING:

5. Although, the complainant Somnath father of the deceased at whose instance the FIR was registered stated that he has compromised the matter with Manisha and her father Satpal Kalra and other family members. He further stated that they would abide by the terms of compromise. The petitioner Manisha was married to Sh. Mohit Uppal, who committed suicide on 21.02.2013. After that, based on the complaint of father of the deceased, the FIR was registered against Manisha and her father. Now he has compromised the matter and even settled their issues regarding the property as per the terms of the compromise deed. Although this Court appreciates the settlement of the disputes regarding property and other thing but the difficulty is that as per the judicial precedents laid down by Hon'ble the Supreme Court, this Court is constrained to dismiss the present compromise petition. Needless to say that the parties are likely to maintain their same stand during the trial and it is most likely to result into dismissal of the prosecution, as such, this Court proposes to expedite the trial.

6. Petitioners' counsel places reliance upon a catena of decisions of this court and also on the decisions of Hon'ble Supreme Court passed in Geo Varghese v. State of Rajasthan, decided on 5.10.2021, Criminal Appeal No.1164 of 2021; and State of Kerala v. S. Unnikrishnan Nair, decided on 13.8.2015, Law Finder Doc Id # 701516 and seek quashing of FIR based upon the compromise entered between the accused the legal representative of the deceased.

7. The State's counsel has severely opposed this compromise and seeks dismissal of the petition because of the heinous nature of the offence.

8. Section 320 CrPC provides for compromise with the legal representatives of the deceased when the victim has expired during the pendency. The difference is that in Section 306 IPC cases, the victim expires not during the pendency but because of the suicide. Another angle that cannot be lost is that when the deceased's family absolves the accused of any of his/her act, it would be impossible for the prosecution to succeed during the trial.

9. In Nallari Sudha Rani vs. The State of Telangana, SLP (Crl.) Nos.2967-2968 of 2019, decided on 26-7-2021, a two-judge bench of the Supreme Court holds as under:-

..."After hearing learned counsel for the parties, we are the considered opinion that the High Court has of committed a manifest error in allowing

the application filed by the private parties and thereby permitting them to compound the offence in question. The private respondent Nos. 2 to 4 had been named as accused in connection with offence punishable under Section 306 of Indian Penal Code. We fail to understand as to how the High Court could have permitted the private parties to compound the said offence, which is a non-compoundable offence.

We are appalled to notice that even the public prosecutor appearing for the State before the High Court, did not oppose that prayer. We say no more.

Accordingly, we set aside the impugned order and direct that criminal petition No. 12089 of 2018 stands restored to the file of the High Court to its original number for being proceeded afresh on its own merits and in accordance with law.”

10. In State of Kerala v. S. Unnikrishnan Nair, decided on 13.8.2015, Law Finder Doc Id # 701516, a two-judge bench of Hon’ble Supreme Court holds,

[18]. Coming to the case at hand, as we have stated earlier, the suicide note really does not state about any continuous conduct of harassment and, in any case, the facts and circumstances are quite different. In such a situation, we are disposed to think that the High Court is justified in quashing the proceeding, for it is an accepted position in law that where no prima facie case is made out against the accused, then the High Court is obliged in law to exercise the jurisdiction under section 482 of the Code and quash the proceedings. See *V.P. Shrivastava v. Indian Explosives Limited and Others*, (2010) 10 SCC 361.

11. In Geo Varghese v. State of Rajasthan, decided on 5.10.2021, Criminal Appeal No.1164 of 2021, a two-judge bench of Hon’ble Supreme Court holds,

[2]. Being aggrieved by the impugned judgment and order dated 30.04.2019 passed by the High Court of Judicature for Rajasthan at Jaipur (hereinafter referred to as ‘High Court’) dismissing the petition under Section 482 of the Code of Criminal Procedure seeking to quash the First Information Report dated 02.05.2018 registered as Case No. 162 of 2018 at Police Station Sodala, Jaipur City (South), the accused, a Physical Training Teacher in St. Xavier's School, Nevta, Jaipur and also a member of the Disciplinary Committee for maintaining overall discipline by the students of the School, who is to face prosecution for offence under Section 306 Indian Penal Code (hereinafter referred to as ‘IPC’) is before us.

[34]. The scope and ambit of inherent powers of the Court under Section 482 CrPC or the extra-ordinary power under Article 226 of the Constitution of India, now stands well defined by series of judicial pronouncements. Undoubtedly, every High Court has inherent power to act ex debito justitiae i.e., to do real and substantial justice, or to prevent abuse of the process of the Court. The powers being very wide in itself imposes a solemn duty on the Courts, requiring great caution in its exercise. The Court must be careful to see that its decision in exercise of this power is based on sound principles. The inherent power vested in the Court should not be exercised to stifle a legitimate prosecution. However, the inherent power or the extra-ordinary power conferred upon the High Court, entitles the said Court to quash a proceeding, if it comes to the conclusion that allowing the proceeding to continue would be an abuse of

the process of the Court, or the ends of justice require that the proceeding ought to be quashed.

[40]. In the absence of any material on record even, prima-facie, in the FIR or statement of the complainant, pointing out any such circumstances showing any such act or intention that he intended to bring about the suicide of his student, it would be absurd to even think that the appellant had any intention to place the deceased in such circumstances that there was no option available to him except to commit suicide.

[41]. In the absence of any specific allegation and material of definite nature, not imaginary or inferential one, it would be travesty of justice, to ask the appellant-accused to face the trial. A criminal trial is not exactly a pleasant experience and the appellant who is a teacher would certainly suffer great prejudice, if he has to face prosecution on absurd allegations of irrelevant nature.

[42]. Bearing in mind the factual aspects of the case delineated herein above and the legal principles enunciated by a series of pronouncements of this Court discussed herein above, we are of the view that High Court was not justified in dismissing the application under section 482 CrPC for quashing the First Information Report in exercise of its inherent jurisdiction.

[43]. We are conscious of the pain and suffering of the complainant who is the mother of the deceased boy. It is also very unfortunate that a young life has been lost in this manner, but our sympathies and the pain and suffering of the complainant, cannot translate into a legal remedy, much less a criminal prosecution.

[44]. In view of above facts and discussions, the impugned judgment of the High Court dated 30.04.2019 cannot be sustained and is hereby set aside. The First Information Report registered as Case No. 162 of 2018 at Police Station Sodala, Jaipur City (South), stands quashed.

12. The decisions in Geo Varghese and Unnikrishnan *supra* were on merits and not on compromise; hence not applicable in the present case, where the quashing is sought on compromise and not on merits.

13. In the light of the decision of Hon'ble Supreme Court in Nallari Sudha Rani *supra*, the compromise point towards its rejection,

14. Although this court has rejected the compromise. However, the fact remains that the interested parties had compromised the matter. As such, this court requests Id. trial court to expedite the trial and make an endeavour to conclude it by Sep 30, 2023. The accused shall be permitted to appear through their counsel, except on the dates when the Trial Judge wants their presence, on the day of identification, at the stage of 313 CrPC, if the stage arises, at the time 315 CrPC, if the accused so desire, and at the time

of judgment if the court so directs. Parties to bring this request to the notice of the concerned Court and are directed not to seek any adjournment.

Petition dismissed in the terms mentioned above. All pending applications, if any stand closed.

(ANOOP CHITKARA)
JUDGE

11.05.2023
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.