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

**CRM-M-9446-2020 (O&M)
DECIDED ON: 10.02.2023**

**GOBIND RAI @ GOLDY @ DON AND OTHERS
.....APPLICANTS-PETITIONERS**

VERSUS

**STATE OF PUNJAB AND OTHERS
.....RESPONDENTS**

CORAM:HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. P.S. Kanwar, Advocate for
the applicnats-petitioners.

Mr. Mohit Chaudhary, AAG, Punjab.

None for respondents No.2 to 4.

SANDEEP MOUDGIL, J (ORAL)

CRM-3911-2022

This is an application under Section 482 Cr.P.C., seeking addition of Section 326 of IPC, 1860 in the head note and prayer clause of petition has been moved on the ground that at the time of filing the present petition before this Court on 28.02.2020, it was not in the knowledge of the petitioners which was added vide DDR. No.25 dated 25.09.2018. This very fact remained out of knowledge of the parties that they have entered into a compromise (Annexure P-2) and the petitioners alongwith complainant-respondent No.2 were pursuing the instant petition for quashing of the FIR No.55 dated 28.08.2018, registered at Police Station Hajipur, District Hoshiarpur under Sections 323, 324, 341, 148, 149, 120-B, 365 & 511 of the Indian Penal Code, 1860.

It is submitted by the learned counsel for the applicants-petitioners that for the first time they came to know about the addition of Section 326 IPC in the FIR in question, at the time of recording of statement before the JMIC, Mukerian on 12.04.2021, where the Investigating Officer also made a statement with regard to the addition of an offence under Section 326 of IPC.

On the perusal of the report sent by the JMIC, Mukerian, dated

29.04.2021 it has been categorically stated that at the time of recording of statements of the parties to the dispute, the Investigating Officer brought to the notice of the JMIC, Mukerian, that Section 326 of IPC was added as an additional section. The parties present before the JMIC, Mukerian knew fully well about the addition of Section 326 and got their statements recorded and affirmed the terms of compromise for quashing of the instant FIR.

In light of the aforesaid submissions, this Court is of the considered view that no prejudice shall be caused to either party in case the said application is allowed, and necessary correction in the head note as well as in the prayer clause is hereby, allowed to be made by adding the offence of Section 306 of IPC. Hence, the head note as well as the prayer clause of the petition shall be read with Section 326 IPC as well as alongwith other provisions under which the FIR was registered.

CRM-M-9446-2020

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.55 dated 28.08.2018, registered at Police Station Hajipur, District Hoshiarpur under Sections 323, 324, 326, 341, 148, 149, 120-B, 365 & 511 of the Indian Penal Code, 1860, with all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

During the pendency of the dispute, the parties have compromised the matter and filed the present petition for quashing of FIR.

Vide order dated 03.03.2021, parties were directed to appear before the Illaqa Magistrate/Trial Court and report with regard to the genuineness of the compromise was called for.

The report dated 29.04.2021 has been received from Judicial Magistrate Ist Class, Mukerian, stating that the parties have entered into a compromise, which is genuine, voluntary and without any coercion or undue influence.

There is no representation on behalf of respondent Nos.2 to 4, which shows that they have no objection to the quashing of present FIR.

Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052***, has held:-

“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 noncompoundable 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.

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.”

The legal principles as laid down for quashing of the judgment were also approved by the Hon'ble Supreme Court in the matter of 'Gian Singh Versus State of Punjab and another,(2012) 10 SCC 303'. Furthermore, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of 'Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat

and another” (2017) 9 SCC 641’.

It is evident that in view of the amicable resolution of the issues amongst the parties, no useful purpose would be served by continuation of the proceedings. The furtherance of the proceedings is likely to be a waste of judicial time and there appears to be no chances of conviction.

In view of above, FIR No.55 dated 28.08.2018, registered at Police Station Hajipur, District Hoshiarpur under Sections 323, 324, 326, 341, 148, 149, 120-B, 365 & 511 of the Indian Penal Code, 1860, with all the consequential proceedings arising therefrom, is quashed qua the petitioners, on the basis of compromise (Annexure P-2).

The present petition is hereby allowed.

(SANDEEP MOUDGIL)
JUDGE

10.02.2023

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Whether speaking/reasoned: *Yes/No*

Whether reportable: *Yes/No*