

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-16360-2021(O&M)

Decided on : 17.05.2023

Mahinder Singh and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

PRESENT: Mr. S. K. Choudhary, Advocate
for the petitioners

Mr. M. S. Nagra, AAG, Punjab

Mr. S. K. Arya, Advocate
for respondent No. 2

AMAN CHAUDHARY, J.

CRM-22625-2023

The present application has been filed for placing on record the amended Head Note and prayer clause as subsequently Sections 325, 427, 506 and 120-B IPC have been added in the present petition

Notice in the application.

Learned State counsel gives his no objection to the same.

For the reasons mentioned in the application, same is allowed. The petition alongwith amended Head Note and prayer clause is taken on record. Registry is directed to tag the same at the appropriate place.

CRM-M-16360-2021

1. The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 38, dated 28.05.2019 registered under Sections 307, 506 and 34 of the Indian Penal Code, 1860 (Sections 325, 427, 506 and 120-B IPC added

later on) at Police Station Shahpurkandi, District Pathankot, Annexure P-1 and all other consequential proceedings arising therefrom on the basis of compromise dated 05.03.2021, Annexure P-2.

2. Learned counsel for the petitioners submits that is a case of no injury.

3. This Court vide order dated 22.11.2021 had directed the parties to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise.

4. Pursuant to the aforesaid order, report dated 02.12.2021 has been received from the Chief Judicial Magistrate, Pathankot. A perusal of the said report reveals that statements of the concerned persons have been recorded, who have stated that the matter has been settled between the parties and they have no objection if the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion. It is also stated in the report that there are two accused persons in the FIR. They have not been declared as proclaimed offenders and are not involved in any other case.

5. Heard.

6. It is apposite to make a reference to the judgment of Hon'ble The Supreme Court of India in the case of **B.S. Joshi vs. State of Haryana**, (2003) 4 SCC 675, wherein it was observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. It was laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing.

7. In the case of **Gian Singh Vs. State of Punjab and another**, 2012 (4) RCR (Criminal) 543, Hon'ble The Supreme Court of India had also observed that in order to secure the ends of justice or to prevent the abuse of process of Court,

inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of paras read thus:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code.

Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. XXX---XXX”

61. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

8. Hon'ble The Supreme Court of India in the case of **Yogendra Yadav vs. State of Jharkhand**, (2014) 9 SCC 653, held that “now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect

on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

9. In view of the above-referred judgments, perusal of the report of trial Court regarding amicable settlement between the petitioners and the complainant, this Court finds that quashing of FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

10. Resultantly, the present petition is allowed and FIR No. 38, dated 28.05.2019 registered under Sections 307, 506 and 34 of the Indian Penal Code, 1860 (Sections 325, 427, 506 and 120-B IPC added later on) at Police Station Shahpurkandi, District Pathankot, Annexure P-1 and all other consequential proceedings arising therefrom are quashed qua the petitioners on the basis of compromise dated 05.03.2021.

(AMAN CHAUDHARY)
JUDGE

17.05.2023
Mehak

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