

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

CRM-M-15134-2022

Date of decision: 10.01.2023

KAMALJIT KAUR AND ANR.

...Petitioners

V/s

STATE OF PUNJAB AND ANOTHER

...Respondents

CORUM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. B.R. Rana-I, Advocate
for the petitioners.

Mr.Madhur Sharma, AAG Punjab.

Mr. S.L. Rohilla, Advocate
for respondent No. 2.

DEEPAK MANCHANDA J. (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 0043, dated 04.03.2021 registered under Sections 420, 120-B of Indian Penal Code at Police Division No. 6, Ludhiana and all consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

Brief facts of the FIR are that the petitioner No. 1 agreed to sell the plot measuring 1B-1B-12-2/3B i.e. 3250 sq. Yards out of Khasra No. 596 min, 681/2/2 569min, 569 min, 597 khata No. 89/143 to 146 as per jamabandi for the year 1999-2000 situated within the revenue estate of village Kaind, Sub Tehsil Dehlon, District Ludhiana. But even after receiving the full and final amount of sale consideration has not executed the sale deed in favour of the complainant despite continuous requests made by him.

Mr. Sunil Kumar Rohilla, Advocate had put in appearance on behalf of respondent No. 2 and admitted the execution of compromise effected between the parties. This Court on 08.04.2022 issued notice of motion and had directed the private parties to appear before the Illaqa Magistrate/trial Court to get recorded

their statements and trial court would satisfy itself about the authenticity of the

compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

In pursuance of the said order, the report forwarded vide letter no. 618 dated 08.07.2022 has been submitted by the Judicial Magistrate Ist Class, Ludhiana, which is on record. The relevant part of the report is reproduced hereinbelow:-

“From the demeanor of the parties, the compromise between appearing parties appears to be genuine.

Point wise report is submitted hereinafter:

Number of persons arrayed as accused in the FIR;

A. It is respectfully submitted that as per FIR and statement of investigating officer, there are two accused NAMELY HARDEEP SINGH AND KAMALJEET KAUR.

2. Whether any accused is declared as proclaimed offender?

A: In this regard, it is respectfully submitted that as per statement of investigating officer NONE OF THE ACCUSED person is declared as proclaimed person in this FIR.

3. Stage of the trial/proceedings?

A: (1) As per file and the statement of Investigating Officer, the investigation in the present FIR is pending and challan is not presented till date.

4. Whether the compromise is genuine, voluntary and without any coercion or undue influence.

A: In this regard, it is respectfully submitted that in view of the statement suffered by the parties and from their demeanor during preliminary questioning, the COMPROMISE BETWEEN THE PARTIES APPEARS TO BE GENUINE, VOLUNTARY AND OUT OF FREE WILL OF THE PARTIES.

5. Whether the compromise has been effected with all the accused persons and with all the complainant (s)/injured).

A. In this regard, it is respectfully submitted that as per file and in view of statement of IO, there is only one complainant and two accused in the present FIR. As per the statement of parties, matter between both the accused and complainant has been resolved and compromise has been reduced in written.”

In compliance of order dated 08.04.2022, State has filed status report dated 12.07.2022, which is already on record, vide which the matter is stated to be at the stage of investigation.

A perusal of the report received from JMIC, Ludhiana, would show that statements of the concerned persons have been recorded in this case, who have stated that the matter has been compromised and complainant/respondent No. 2 has no objection in case the FIR in question is quashed. They have further stated that the said compromise is genuine, voluntary, and without any coercion or undue influence.

Learned counsel for the petitioners has submitted that no other case is pending against the petitioners and the petitioners have not been declared as proclaimed offenders in this case or in any other case and learned State counsel has not disputed this fact.

Having heard the learned counsel for the parties and after perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant, where the case is at investigation stage, and by the passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably. Therefore to prevent the abuse of the process of law and to secure the ends of justice, the criminal proceedings deserves to be quashed, under section 482 of Cr. P.C., which has the magnitude of the inherent jurisdiction of the High Court under it and this Court has inherent power under Section 482 of Cr.P.C. to quash an F.I.R. even when the offences are non-compoundable, with the driving force being the object of securing ends of justice.

As per the Full Bench judgment of this Court in “**Kulwinder Singh and others Vs State of Punjab**”, 2007 (3) RCR (Criminal) 1052, it is held that:-

“27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in the exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be it in the shape of Section 320(9) of the Criminal Procedure Code, or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code.

28. The compromise, in modern society, is the sine qua non of harmony and orderly behavior. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances social amity and reduces friction, then it truly is the "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions, and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Criminal Procedure Code in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 non-compoundable offences notwithstanding the bar under Section 320 of the Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Criminal Procedure Code is to be exercised Ex-Debita Justitia to prevent abuse of the process of Court. There can neither be an exhaustive list nor the defined parameters 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 Criminal Procedure Code has no limits and the Court is a vital and extraordinary effective instrument to maintain and control social order and play a 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 endeavor to give full effect to the same unless a such compromise is abhorrent to the lawful composition of the society or would promote savagery.”

Hon'ble the Apex Court in the case of “**Gian Singh Vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, had also observed:-

“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. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercising of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offenses of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have a serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the

offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. 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 proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and 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 affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The aforesaid quoted percept has also been followed in ***State of Madhya Pradesh v/s Lakshmi Narayan (2019)5 SCC 688:-***

“xxx...xxx

29.7. While deciding whether to exercise its power under section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed.

xxx....xxx”

The view taken by this Court also find support from the recent judgment of the Hon’ble Supreme Court in ***Ram Gopal & Anr- V/s State of Madhya Pradesh , 2021(4) RCR (Criminal) 322***, relevant of which is as under:-

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C., 1973 or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C., 1973 Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature

and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”

In view of the report of Judicial Magistrate First Class, Ludhiana, the compromise (Annexure P-2) and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Therefore, this petition is allowed and FIR No. 0043, dated 04.03.2021 registered under Sections 420, 120-B of Indian Penal Code at Police Division No. 6, Ludhiana and all the subsequent proceedings emanating therefrom ***are hereby quashed***, qua the petitioners.

(DEEPAK MANCHANDA)
JUDGE

10.01.2023
Ajay Goswami

Whether speaking/reasoned	Yes
Whether reportable	Yes/No