

282 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-16360-2022

Date of Decision: 23.01.2023

PARDEEP KUMAR

..... Petitioner

Versus

STATE OF PUNJAB AND ANR

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Manu Loona, Advocate for the petitioner.

Mr. Digvijay Nagpal, AAG, Punjab.

Mr. Aseem Kaushal, Advocate for

Mr. Yeseen Sethi, Advocate for respondent No.2.

JAGMOHAN BANSAL, J. (Oral)

The instant petition, on the basis of compromise dated 16.04.2022 (Annexure P-4), is filed under Section 482 Cr.P.C., seeking quashing of judgment dated 21.12.2017 (Annexure P-1) in Criminal Complaint No.165-1/28.09.2015 under Sections 406 and 498A of IPC, Police Station Sadar Fazilka, District Fazilka whereby Chief Judicial Magistrate, Fazilka, has convicted the petitioner under Section 498A of IPC.

In terms of order dated 05.05.2022 of this Court, Additional Chief Judicial Magistrate, Fazilka, has submitted his report dated 30.08.2022. The relevant extracts of the report are as below:

“i) That as per the requisitioned appeal file, the criminal complaint was filed against six accused but only accused/petitioner Pardeep Kumar was summoned and subsequently convicted vide judgment dated 21.12.2017 by the Court of learned CJM, Fazilka. The said Pardeep Kumar appeared before

this Court and has made statement in support of the compromise. None of the accused has been declared as absconder/P.O. in this case.

ii) That as per the requisitioned appeal file, complainant Rajwinder Kaur had filed the criminal complaint and she has appeared and made her statement in support of the compromise.

ii) No proceedings are pending before this Court. Rather an appeal against the judgment of conviction is pending in the Court of Sh. Vishesh, learned Addl. Sessions Judge, Fazilka for 17.09.2022 for arguments.

iv) That the compromise arrived at between the parties is genuine, voluntarily and out of free will of the parties.

v) That as per the statements of parties, no other case is pending against the accused in any Court.”

Learned State counsel and learned counsel for the complainant submitted that they have no objection, if criminal complaint, subsequent proceedings arising therefrom, judgment of conviction and order of sentence are quashed.

Learned counsel for the parties are ad idem that petitioner and respondent No.2 have reunited and staying together as husband and wife.

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

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 betwixt 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.”

Concededly, appeal against judgment of conviction and order of sentence is pending before learned Additional Sessions Judge, Bathinda, and the appellant (petitioner herein) is already on bail.

From the perusal of the criminal complaint, judgment of conviction & order of sentence, report of the Court below and compromise arrived at 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. 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. Criminal Complaint No.165-1/28.09.2015 under Sections 406 and 498A of IPC, Police Station Sadar Fazilka, District Fazilka and judgment of conviction dated 21.12.2017 (Annexure P-2) and all consequential proceedings, are hereby quashed.

(JAGMOHAN BANSAL)
JUDGE

23.01.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>