

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

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CRM-M-14554-2019

Date of Decision: 11.01.2023

Vinay Manchanda and Others

...Petitioners

Versus

State of Punjab and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- None for the petitioner and respondent No.2

Mr. Digvijay Nagpal, AAG, Punjab

JAGMOHAN BANSAL, J. (Oral)

The petitioners through instant petition under Section 482 Cr.P.C, on the basis of statements dated 17.11.2017 (Annexure P-3) and 30.05.2018 (Annexure P-4) of respondent No.2, are seeking quashing of FIR No.137 dated 28.10.2016 (Annexure P-1/T) under Sections 406/498-A, registered at Police Station Women Cell, Ludhiana, District Ludhiana and all subsequent proceedings arising therefrom.

In terms of order dated 18.07.2019 of this Court, Judicial Magistrate, 1st Class, Ludhiana, has submitted her report dated 19.08.2019. The relevant extracts of the report are as below:-

“2. The undersigned has recorded the separate statement of complainant namely Isha Manchanda @ Isha Narang, on her appearance in the Court, who stated in her statement that she is complainant in FIR No.137 dated 28.10.2016 which was registered u/s 406/498A IPC at P.S. Women Cell, Ludhiana against accused Vinay Manchanda and Anju Bala. She further stated that she has compromised the matter with the accused persons

namely Vinay Manchanda and Anju Bala voluntarily out of her free will and without any pressure from any corner and as per compromise, she does not want to proceed further with the present FIR against the abovesaid accused persons and she has no objection if the said FIR be quashed against them by Hon'ble Punjab and Haryana High Court, Chandigarh. She attached copy of her Aadhar Card as her identity proof as Ex.PX.

3. *It is humbly submitted that in compliance of order dated 04.04.2019 passed in CRM-M-14554-2019, the statements of other co-accused persons namely Vinay Manchanda and Anju Bala were recorded on 02.07.2019 and the report regarding the same has already been sent to the Hon'ble Punjab & Haryana High Court vide this Court endst. No.151 of 09.07.2019.*

4. *It further submitted that as per the report of concerned Ahlmad, in the presem FIR there are three accused persons namely Vinay Manchanda, Anju Bala and Rakesh Manchanda and no accused has been declared as proclaimed person in the present case.*

5. *It is also submitted that one of the co-accused namely Rakesh Manchanda is also indicted in the present case who has not come record his statement. After going through the statements of parties i.e. of accused persons namely Vinay Manchanda and Anju Bala recorded on 02.07.2019 and the complainant Isha Manchanda recorded on 13.08.2019, I am of the considered view that the compromise between the complainant and abovenamed accused persons is valid, genuine, voluntary and without any coercion or undue influence which has been entered with the sole motive of living with peace and harmony.”*

Learned State counsel would submit that respondent-State has no objection, if the present FIR and subsequent proceedings are quashed.

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 extra-ordinary 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.³ 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."

From the perusal of the enclosed FIR, report of the Trial Court and compromise arrived 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. There appears to be no chance of conviction, thus, 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 is allowed. FIR No.137

dated 28.10.2016 (Annexure P-1/T) under Sections 406/498-A, registered at Police Station Women Cell, Ludhiana, District Ludhiana and all subsequent proceedings arising therefrom, are hereby quashed qua the petitioners.

(JAGMOHAN BANSAL)
JUDGE

11.01.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>