

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

274-a

CRM-M-20462-2023 (O&M)
Date of decision: 24.08.2023

Kashmir Singh

..Petitioner

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Amandeep Chhabra, Advocate for the petitioner.

Mr. HS Sullar, Sr. DAG, Punjab.

Mr. Deepak Vashishth, Advocate
for respondents No.2 and 3.

AMAN CHAUDHARY, J

1. The present petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.0076 dated 06.09.2022 under Section 307 IPC and Sections 25 and 27 of Arms Act, at Police Station Bajakhana, District Faridkot and all other consequential proceedings arising therefrom, in view of the compromise dated 31.03.2023 reached between the parties.
2. Learned counsel for the petitioners submits that respondent-Resham Singh and petitioner-Kashmir Singh are real brothers and there are cross cases registered by the respective parties against each other, one of which was registered by complainant-Paramjit Kaur, wife of the petitioner and the other by Akashdeep Singh, son of Resham Singh. As per the allegations, both the brothers started quarelling and the petitioner fired from his gun, which was snatched by his brother Resham Singh but

pellet touched his right arm and right chest. The injuries caused were simple in nature.

3. Learned counsel for respondents No.2 and 3 affirms the aforesaid facts; admits the factum of compromise and has no objection if the FIR in question is quashed.

4. Heard learned counsel for the parties and gone through the case file.

5. Adverting to the facts, this Court while issuing notice of motion vide order dated 26.04.2023, directed the parties to appear before the trial Court/Illaq Magistrate for recording their statements with regard to the compromise.

6. Pursuant to the aforesaid order, report dated 26.05.2023 has been received from the Judicial Magistrate 1st Class, Faridkot. A perusal of the said report reveals that statements of the concerned persons have been recorded in the present case, who have stated that the matter has been settled between them and they have no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion. It is stated in the report that there is one accused. None of the accused has been declared as proclaimed offender and only respondent-Resham Singh is involved in three more cases.

7. It is apposite to make a reference to the judgment of Hon'ble The Supreme Court 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.

8. In the case of **“Gian Singh vs. State of Punjab and another”**, 2012 (4) RCR (Criminal) 543, Hon'ble The Supreme Court 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.”

9. Hon'ble The Supreme Court 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 vs. 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.”

10. In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the

petitioners and the complainants, this Court finds that quashing the 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.

11. Resultantly, the present petition is allowed and FIR No.0076 dated 06.09.2022 under Section 307 IPC and Sections 25 and 27 of Arms Act, at Police Station Bajakhana, District Faridkot and all other consequential proceedings arising therefrom, are quashed qua the petitioners.

24.08.2023
ashok

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No