

**249 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-22157-2022
Date of Decision: 16.02.2023****Neeraj and others****...Petitioners****Versus****State of Haryana and others****...Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA****Present: Mr.Rajinder Sharma, Advocate
for the petitioners.****Mr. Karan Garg, AAG, Haryana.****Mr. Deepak Sharma, Advocate
for the respondents No. 2 and 3.*************DEEPAK MANCHANDA J. (ORAL)**

This petition has been filed under Section 482 Cr.P.C praying for the quashing of FIR No.170 dated 19.03.2021 registered under Sections 3(1)(c), 3(1)(r), 3(1)(s), 3(1)(w)(ii) under SC/ST (Prevention of Atrocities Act) 1989 at Police Station Shahbad (Annexure P-3) and all consequential proceedings arising therefrom, on the basis of compromise dated 13.05.2022 (Annexure P-4) and affidavits dated 13.05.2022 (Annexures P-5 and P-6).

Mr. Deepak Sharma, Advocate has put in appearance on behalf of respondents No. 2 and 3 and admitted the factum of compromise. This Court on 20.05.2022 issued notice of motion and thereafter, on 27.10.2022 had directed the private parties to appear before the trial Court/Illaq Magistrate on 11.11.2022 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 of Additional District and Sessions Judge, Kurukshetra forwarded vide letter no.784 dated 08.12.2022 has been submitted, which is already on record. The relevant part of the report is reproduced hereinbelow:-

“ Further statement of Devender Kumar, Inspector/SHO Police Station Shahabad is recorded qua this point and he also stated that as per record of police station Shahabad and information recorded from other police station, the accused Neeraj Verma, Deepak Verma and Rajvir are not involved in any other case. (The statement in this regard is enclosed as Annexure-A4).

Now keeping in view the above referred statements of the Investigating Officer, it transpires that there are two victim i.e. Nisha and Mangu Ram. There is no other person in this FIR who could be said as victim or complainant as per the statement of the Investigating Officer.”

In compliance with the order dated 20.05.2022, respondent No. 1-State has filed reply dated 20.10.2022, which is already on record, wherein it is sated that the matter is at the stage of framing of charge.

A perusal of the report received from Additional District and Sessions Judge, Kurukshetra 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 as well as respondent No. 3 have 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 there is no other FIR against the petitioners 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 the stage of framing of charge 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 if 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-Debitis 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. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above.

xxx....xxx”

The view taken by this Court also finds 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 extraordinary 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.”

Further the Hon’ble Supreme Court in the case of ***Ramawatar V/s State of Madhya Pradesh, 2021(3) ALT (Crl.) 504***, where the issue of quashing of FIR under SC/ST Act, 1889, Section 3(1) (x) has been dealt with and relevant of which is as under:-

“13.Still further, the Hon’ble Apex Court in Ramawatar v. State of Madhya Pradesh 2021(4) RCR (Criminal) 555, considered the following question:

“whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?”

14. While answering the above-said question, the Hon’ble Apex Court quashed the criminal proceedings and also set aside the judgments of conviction and sentence passed by the Trial Court as well as the High Court of Madhya Pradesh, by observing as under:-

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity,

humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a 'special statute' would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C..”

15. Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the instant case, this Court is inclined to invoke powers under Section 482 Cr.P.C. to quash the criminal proceedings for the following reasons:

i. In the present case, a perusal of the FIR in question would manifest that there was a pre-existing civil dispute between the parties. Thus, the genesis of the alleged occurrence was the afore-stated civil/property dispute. Considering this aspect, even though the provisions of a special statute have been invoked in the present case; however this Court is of the prima facie opinion that the alleged occurrence appears

to be private in nature, having only subtle undertones of criminality.

ii. The alleged offence in question does not appear to exhibit the mental depravity of the petitioners.

iii. The alleged occurrence dates back to January, 2018. There is nothing on record to indicate that either before or after the purported compromise, any untoward incident had transpired between the parties.

iv. The complaint is not likely to support the case of the prosecution and continuation of the proceedings is likely to be a waste of judicial time.

v. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.

vi. The grievances having been resolved, no interest of justice would be served by forcing the petitioner to undergo rigorous of criminal proceedings.

vii. Since the petitioner and the complaint are residents of the same area/town, the quashing of criminal proceedings will advance peace, harmony and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and continuation of the proceedings is not likely to advance any interest of justice.

viii. The cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the petitioner.”

Therefore, the very purpose behind the Special Act is to deter caste-based insults and intimidation when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/Scheduled Tribe community. Considering the peculiar facts of the present case it would not be incorrect to categorize the occurrence as one being overwhelmingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been

attracted in the present case.

In view of the report of Additional District and Sessions Judge, Kurukshetra, the compromise dated 13.05.2022 (Annexure P-4) and the principles laid down in conspectus of aforesaid judicial precedents and the observations made above, no useful purpose would be served by continuing the proceedings. Therefore, this petition is allowed and FIR No.170 dated 19.03.2021 registered under Sections 3(1)(c), 3(1)(r), 3(1) (s), 3(1) (w)(ii) under SC/ST (Prevention of Atrocity Act) 1989 at Police Station Shahbad (Annexure P-3) and all the subsequent proceedings emanating therefrom are hereby quashed, qua the petitioners only.

(DEEPAK MANCHANDA)
JUDGE

16.02.2023
Manisha/sapna

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