

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

119+203

CRM-10642-2023 in/and
CRM-M-18849-2019
Date of Decision : 10.03.2023

Nanak Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Himanshu Puri, Advocate
for the petitioners.

Mr.Shiva Khurmi, Asstt. A.G., Punjab.

Ms. Amarjot Kaur, Advocate for
Mr. B.S.Bhalla, Advocate
for respondents No.2 to 4.

JAGMOHAN BANSAL, J. (Oral)

CRM-10642-2023

Application is allowed as prayed for and the amended petition
is taken on record subject to all just exceptions.

Registry is directed to tag the same at an appropriate place.

CRM-M-18849-2019

The petitioners through instant petition, on the basis of
compromise, are seeking quashing of judgment and order of sentence dated
15.06.2016 passed by Sub Divisional Judicial Magistrate, Sultanpur Lodhi
(Annexure P-3) in FIR No.84 dated 21.10.2011 registered at Police Station
Fattudhinga, District Kapurthala, under Sections 452/323/354/506/148/149
IPC.

In terms of order dated 23.07.2019 of this Court, learned

Additional District and Sessions Judge-II, Kapurthala has submitted her report dated 05.09.2019. It confirms that all the parties and Investigating Officer appeared before the Court and tendered their statements qua compromise arrived at between the parties. The compromise is voluntary, genuine and without any coercion. No accused is a proclaimed offender. All the accused as well complainant have entered into compromise.

The petitioners have preferred appeal against impugned judgment dated 15.06.2016 and it is stated to be pending before Appellate Court.

Present case is counter case of FIR registered against family of respondents herein.

Learned counsel for the petitioners submits that in view of recent judgment of Hon'ble Supreme Court in 'Ramgopal and another Vs. State of Madhya Pradesh, 2021 SCC online SC 834' and a Division Bench of this Court in Sube Singh and another vs. State of Haryana and another, 2014 (2) Crimes 299.

Learned State counsel as well as learned counsel for private respondents submit that they have no objection if impugned judgment on the basis of compromise is 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 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.](#)³ and [Laxmi Narayan \(Supra\)](#).

14. 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."

It is apt to notice that on the basis of compromise judgment dated 03.12.2015 passed by learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, convicting Gurkirpal Singh and Mohan Singh (father of Gurkirpal Singh) stands set aside vide order dated 16.10.2019 passed by this Court.

From the perusal of the enclosed FIR, judgment of conviction 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 predominantly 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 overburdened. In view of judgments of Hon'ble Supreme Court and Division Bench of this Court cited by learned counsel for the petitioners, judgment of conviction can be set aside if appeal is pending before Appellate Court. Parties are ad-idem that appeal against impugned judgment is pending before Appellate Court.

In view of above facts and circumstances, the present petition deserves to be allowed and accordingly allowed. The impugned judgment and order dated 15.06.2016 (Annexure P-3) is set aside.

CRM-10642-2023 in/and
CRM-M-18849-2019

10.03.2023
anju

(JAGMOHAN BANSAL)
JUDGE

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