

135 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-25813-2022 (O&M)

Date of Decision:17.01.2023

HARWINDER PAL SINGH AND ORS. Petitioners

Versus

STATE OF PUNJAB AND OTHERS Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. S.S. Sarwara, Advocate
for the applicants-petitioners.

Mr. Amish Sharma, AAG, Punjab.

Mr. Sanjay Khan, Advocate for
Mr. S.P.S. Chakkal, Advocate
for respondents No.2 and 3.

JAGMOHAN BANSAL, J. (Oral)
CRM-1520-2023

The next date fixed before this Court is 12.07.2023.

Application is allowed and the matter with the consent of
parties is taken today itself.

Application stands disposed of.

CRM-M-25813-2022

This petition is filed under Section 482 Cr.P.C. for quashing
of FIR No. 0097, dated 14.10.2017, under Sections 447, 511, 147, 149,
380, 354 and 506 of IPC, registered at Police Station Banur, District SAS
Nagar Mohali , (Annexure P-1), and all other consequential proceedings
arising therefrom, on the basis of compromise/ affidavit dated
13.05.2022 (Annexure P-2).

In terms of order dated 08.06.2022 of this Court, learned Judicial Magistrate 1st Class, SAS Nagar Mohali has submitted his report dated 01.08.2022. The relevant extracts of the report are as below :-

“Q1. Number of complainants in the present case?

Ans. FIR was got registered on the statement of Complainant Raj Rani wife Surjit Singh. However, Suman Rani wife of Raj Kumar was another victim/complainant in the present case.

Q2. Number of accused persons in the present case?

Ans. There are three accused persons in the present case namely Harwinder Singh son of Balbir Singh, Yadwinder Singh son of Gurdev Singh and Raj Kumar son of Kaka Dass was nominated later on in the present case.

Q3. Whether the accused persons are involved in another FIR or not?

Ans. Yes. As per record, applicant/petitioner namely Harwinder Singh is also arrayed as an accused in following FIRs:-

Sr. No .	FI R no.	Dated	Under Section	Police Station	Whether acquitted or convicted or trial is still pending
1	45	22.06.2022	324, 323, 341, 148, 149 IPC	Ghanaur	Acquitted
2	26	04.04.2009	323, 324, 326, 506, 34 of IPC and Section 30 of Arms Act	Ghanaur	Acquitted
3	69	2017	447, 511, 427, 147, 149 IPC	Banur	Trial pending.

He further stated that as per record, applicant/petitioner namely Yadwinder Singh is also arrayed as an accused in following FIR:-

Sr. No.	FI R no.	Dated	Under Section	Police Station	Whether acquitted or convicted or trial is still pending
1	19	2017	323, 406, 498A, 506 IPC	Cheeka	FIR quashed by the Hon'ble High Court in CRM-M-30575 of 2016 vide order dated 18.11.2016

He further stated that as per record no other FIR is registered against applicant/petitioner namely Raj Kumar.

Q4.Whether any accused is a proclaimed offender?

Ans. None of the above named accused has been declared as proclaimed offender and no such, proceedings are pending against any of the above accused persons.

In view of the statements of the parties, I am satisfied that the compromise effected between the parties is genuine, voluntary and without any coercion or undue influence. Hence, the report is submitted accordingly with original statements of the parties. ”

Statement of Investigating Officer was recorded by Trial Court and said statement is part of report dated 01.08.2022 submitted by learned Trial Court.

Learned State counsel on instruction from Investigating Officer and learned counsel for respondents No.2 and 3 submitted that they have no objection if FIR and consequent proceedings in view of

compromise 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).

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 between 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, 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.

FIR No. 0097, dated 14.10.2017, under Sections 447, 511, 147, 149, 380, 354 and 506 of IPC, registered at Police Station Banur, District SAS Nagar Mohali , (Annexure P-1), and all other consequential proceedings arising therefrom are quashed *qua* the petitioner(s).

(JAGMOHAN BANSAL)

JUDGE

17.01.2023

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