

CRM-M- 29198-2021 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M- 29198-2021 (O&M)

Date of Decision:04.05.2023

Naresh Kumar and others

... Petitioners

V/s.

State of Haryana and another

... Respondents

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Sachin Dhull, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG, Punjab.

DEEPAK MANCHANDA, J.(Oral)

This petition has been filed under Section 482 Cr.P.C. praying for the quashing of FIR No. 95 dated 06.02.2021 under Sections 147, 149, 279, 307 IPC registered at Police Station Hansi City and all the subsequent proceedings emanating therefrom on the basis of compromise deed (Annexure P-3).

The FIR has been got registered by the complainant Pawan Kumar Raparia, President Bar Association, Hansi for taking legal action against driver of vehicle No. HR-21N-4783 mark i20 colour white and four other persons seated inside the car, who by hatching a criminal conspiracy

have tried to crush and kill advocates seated at Dharna.

Mr. Sant Lal Barwala, Advocate has put in appearance on behalf of respondent No. 2 and admitted the factum of compromise. On 28.07.2021, this Court after issuance of Notice of motion had directed the private parties to appear before the Illaqa Magistrate/trial Court 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 reports forwarded vide letter No. 488 dated 31.08.2021 and dated 03.09.2021 have been submitted by the Principal Magistrate, JJB, Hisar and the Sessions Judge, Hisar which are on record. The relevant part of the report dated 03.09.2021 is reproduced hereinbelow:-

“In view of order dated 28.07.2021 passed by Hon'ble Punjab & Haryana High Court, Chandigarh in CRM-M 29198 of 2021, all the complainant and the accused namely Naresh, Deepak, Govind and Devender appeared in the Court and their statements have been recorded. In their statements they have specifically stated that the matter has been compromised between them. I believe that the statements given by all the complainant as well as accused have been made voluntarily which are without any inducement, threat and pressure. The memorandum of statements is attached with this report. The report is being made as desired by the Hon'ble High Court of Punjab & Haryana at Chandigarh. It is pertinent to mention here that in the present case one accused namely Sahil was juvenile-in-conflict with law and report qua him as submitted by the Principal Magistrate, Juvenile Justice Board, Hisar, has already been sent to

the Hon'ble Punjab & Haryana High Court, Chandigarh on 01.09.2021. It is further submitted that in the present case no one was declared as proclaimed offenders."

In compliance with the order dated 25.01.2023, an affidavit dated 14.03.2023 has been filed by respondent No.1, i.e. State, wherein it is mentioned that since all the advocates sitting on *dharna* had rushed to the side when the speeding car approached, therefore, no advocate was injured during the incident hence there is no MLR in the present case. Further, the investigation in the matter is complete and challan stands presented the case is pending for examination of prosecution witnesses.

A perusal of the said report 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 has 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 none of the petitioners have been declared as proclaimed offender and learned State counsel has not disputed this fact.

Having heard 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 prosecution evidence, 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 the 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 of 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-Debitia 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.”

In regards with Section 307 IPC, the Apex court in Para 13 of the judgment rendered in **State of Madhya Pradesh v/s Lakshmi Narayan, (2019)5 SCC 688**, has observed as follows:-

“13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under [Section 482](#) of the Code to quash the criminal proceedings for the non-compoundable offences under [Section 320](#) of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under [Section 307](#) IPC and the [Arms Act](#) etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under [Section 307](#) IPC and/or the [Arms Act](#) etc. which have a serious impact on the society cannot be quashed in exercise of powers under [Section 482](#) of the Code, on the ground that the parties have resolved their entire dispute amongst

themselves. However, the High Court would not rest its decision merely because there is a mention of [Section 307](#) IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307](#) IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under [Section 307](#) IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under [Section 482](#) of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impart on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.”

In view of the reports of Principal Magistrate, JJB, Hisar and the Sessions Judge, Hisar, the compromise (Annexure P-3) and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Therefore, this petition is allowed and FIR No. 95 dated 06.02.2021 under Sections 147, 149, 279, 307 IPC registered at Police Station Hansi City and all the subsequent proceedings emanating therefrom *are hereby quashed*, qua the petitioners only.

(DEEPAK MANCHANDA)
JUDGE

04.05.2023
seema

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