117 IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-6901-2017 (O&M)
Date of Decision:12.01.2023

DILBAG SINGH AND ORS ..... Petitioners

Versus

STATE OF PUNJAB AND ANR. ..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Navjot Singh, Advocate for the petitioners.

Mr. Amish Sharma, AAG, Punjab.

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JAGMOHAN BANSAL, J. (Oral)

This petition is filed under Section 482 Cr.P.C. for quashing of FIR No. 76 dated 28.08.2014 (Annexure P-1), under Sections 452, 323, 324, 354, 427, 148 and 149 of IPC registered at Police Station Dera Baba Nanak, District Gurdaspur, and all other consequential proceedings arising therefrom, on the basis of compromise/ affidavit dated 16.01.2015 (Annexure P-3).

In terms of order dated 25.09.2018 of this Court, learned Judicial Magistrate 1st Class, Batala has submitted his report dated 20.11.2018. The relevant extracts of the report are as below :-

> *"In compliance to the aforesaid order dated 25.09.2018 of Hon'ble Punjab and Haryana High Court, the report of the undersigned as regards the petitions having no. CRM-M-6447-2017 and CRM-M-6901-2017 is as follows:-*
>
> *I. It is respectfully submitted that case having FIR No.76 dated 28.08.2014 under Section 452, 323, 324, 354, 427, 148, 149 IPC was registered at Police Station Dera Baba Nanak, Police District Batala, Gurdaspur*

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against seven accused namely Dilbagh Singh, Surta Singh, Nishan Singh, Ajit Singh, Baldev Singh, Jaswant Singh alias Jaspal Singh, Tinku and 4-5 unidentified persons. Further as per the statements of parties and the investigating officer concerned, there were two injured namely Jagmohan Singh and Kashmir Singh, who all have joined in the compromise. However, it is apposite to mention here that accused Tinku has not turned up for recording his statement as regards compromise. It is further submitted that in view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between the parties seems to be genuine one, which is not the result of any pressure or coercion. Moreover, as per statement of the investigating officer of this case, none of the above mentioned persons was ever declared as proclaimed offender/person in any case by any court of law nor such proceedings were initiated against them. He has further stated that no other case has been registered against either of the accused or complainant nor they were convicted in any case.

II. Similarly, as regards the case having DDR No. 28 dated 28.08.2014 u/s 326, 323, 324, 341, 148, 149 1PC in FIR No.76 dated 28.08.2014 under Section 452, 323, 324, 354, 427, 148, 149 IPC registered at Police Station Dera Baba Nanak, Police District Batala, Gurdaspur, it was submitted by the investigating officer that the said case was registered against ten accused namely Jasbir Singh, Labh Singh, Sunny, Jagmohan Singh, Kashmir Singh, Balwinder Singh, Kuldeep Singh, Palwinder Kaur alias Balwinder Kaur, Sharanjit Kaur and Amrik Singh. Further as per the statements of parties and the investigating officer concerned, there was only one injured in that case namely Dilbagh Singh and all the above mentioned persons have joined in the

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> *compromise. However, it is apposite to mention here that accused Jasbir Singh has not turned up for recording his statement as regards compromise. It is further submitted that in view of the statements got recorded by both the parties, this court is satisfied that the compromise effected between the parties seems to be genuine one, which is not the result of any pressure or coercion. Moreover, as per statement of the investigating officer of this case, none of the above mentioned persons was ever declared as proclaimed offender/person in any case by any court of law nor such proceedings were initiated against them. He has further stated that no other case has been registered against either of the accused or complainant nor they were convicted in any case."*

Learned State counsel on instruction from ASI Kulwinder Singh and learned counsel for the complainant submitted that they have no objection if FIR and consequent proceedings in view of compromise are quashed.

Learned State counsel further submitted that Investigating Agency has already filed cancellation report before the Trial Court.

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*

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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 320Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320Cr.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 320Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482Cr.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

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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

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> *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 is allowed.

FIR No. 76 dated 28.08.2014 (Annexure P-1), under Sections 452, 323, 324, 354, 427, 148 and 149 of IPC registered at Police Station Dera Baba Nanak, District Gurdaspur, and all other consequential proceedings arising therefrom are quashed *qua* the petitioner(s).

(JAGMOHAN BANSAL)
JUDGE

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Whether speaking/reasoned	Yes/No
Whether Reportable	*Yes/No*

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