

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

220

CRM-M-28897-2022 (O&M)

Decided on : 16.01.2023

Gursewak Singh @ Sewak and others

. . . Petitioner(s)

Versus

State of Punjab and another

. . . Respondent(s)

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

PRESENT: Mr. Tarunveer Vashist, Advocate
for the petitioner(s).

Mr. Jaswinder Singh Arora, DAG, Punjab.

Mr. Surinder Saini, Advocate
for respondent No. 2.

SANJAY VASHISTH, J. (Oral)

1. Present petition under Section 482, Cr.P.C., has been filed by the petitioners, for quashing of FIR No. 190, dated 02.08.2021 (Annexure P-1), for the offences punishable under Sections 323, 354, 34 of the Indian Penal Code, 1860, and Section 325 of IPC added later on, registered at Police Station Lehra, District Sangrur, and all the consequential proceedings arising therefrom, on the basis of compromise-deed dated 22.09.2021 (Annexure P-2).

2. Vide order dated 11.07.2022, affected parties were directed to appear before the learned trial Court/Illaq Magistrate, for getting their respective statements recorded with regard to the compromise. The trial Court/Illaq Magistrate was to submit a report in this regard giving certain details as enumerated in the said order.

3. Pursuant to the order dated 11.07.2022, passed by co-ordinate Bench of this Court, the parties have appeared before learned Judicial Magistrate Ist Class, Moonak (Sangrur) and as per report dated 23.08.2022,

submitted to this Court, both the parties have got recorded their respective statements in Court. The operative part of the report received from learned Court below is as under:-

“(I) As per Statements of IO, there are four accused namely Mela Singh @ Gurmail Singh son of Gurjant Singh r/o Cheema, District Sangrur, Satpal Singh son of Bhura Singh, Manpreet Singh @ Manna son of Nirmal Singh and Gursewak Singh @ Sewak singh son of Nirmal Singh, all residents of Alampur Tehsil Lehra, District Sangrur.

(II) As per the statements of IO, no other person has been nominated as accused in this case.

(III) As per the Investigating Officer, the accused persons have never been declared as proclaimed offender in this Case.

(IV) As per the statement of IO, the challan has been presented in the Court under Section 173 Cr.P.C. and there is no cross case.

(V) As per the statements of IO, no charge has been framed against the accused persons.

(VI) As per the statements of IO, no other case has been registered against accused Satpal Singh and accused Mela Singh.

(VII) As per the statements of IO, two FIRs has been registered against accused Manpreet Singh @ Manna. One FIR bearing No. 31 dated 05.02.2021 u/s 174-A IPC at PS Cheema and another FIR bearing No. 145 dated 15.10.2016 under Sections 498-A, 406 IPC, PS Cheema has been registered against him.

(VIII) As per the statements of IO, one FIR bearing No. 145 dated 15.10.2016 under Sections 498-A, 406 IPC, PS Cheema has been registered against accused Gursewak Singh @ Sewak Singh.

(IX) As per the statements of IO, the name of the complainant is Dharminder Kumar son of Jagdish Rai, resident of Ward No. 11, Lehra, PS Lehra.

(X) As per the statements of parties, the compromise appears

to be genuine, entered into voluntarily and without any coercion and undue influence.

Report is submitted please.”

4. Learned counsel for the petitioners urged that due to intervention of the respectable and elderly people of the society, the matter has been resolved and private parties have effected a compromise-deed dated 22.09.2021 (Annexure P-2). At present, there remains no dispute amongst the private parties. He further submits that in view of the compromise so effected between the private parties, pendency of the impugned FIR and consequential proceedings emanating therefrom would be sheer abuse of the process of law.

5. Learned State counsel as also learned counsel for respondent No.2, after going through the statements and the report received from learned Court below, very fairly admit that the private parties have resolved their dispute and effected a compromise and that they have no objection if the impugned FIR and all the consequential proceedings are quashed on the basis of the compromise.

6. The Full Bench of this Court in the matter of **Kulwinder Singh and others v. State of Punjab and another**, 2007 (3) RCR (Criminal) 1052, has observed as under:

“(28) To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice”.

*(29) In **Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others**, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:*

“The finest hour of justice arrives

propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

(30) *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 exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.*

(31) *No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.*

(32) *The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "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 Cr.P.C. 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.*

(33) *The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.*

(34) *The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters 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 Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain*

and control social order. The Courts play 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 endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

7. The legal principles as laid down for quashing of the judgment were also approved by the Hon'ble Supreme Court in the matter of **Gian Singh v. State of Punjab and another**, (2012) 10 SCC 303. Furthermore, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of **Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another**, (2017) 9 SCC 641.

8. The Hon'ble Supreme Court has held in the matter of **Ramgopal and another v. State of Madhya Pradesh**, 2021 SCC Online SC 834, that the matters which can be categorized as personal in nature or in the matter in which the nature of injuries do not exhibit mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest, the Court can quash the FIR in view of the settlement arrived at amongst the parties. The observation of the Hon'ble Supreme Court is extracted as under:-

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. 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. 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. 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.”

9. After hearing learned counsel for the parties and going through the material available on record, this Court finds that there appears to be substance in the submission of learned counsel for the petitioners that pendency of the present criminal litigation would be abuse of process of law since the chances of conviction of the petitioners are bleak in view of the compromise so effected between the private parties.

10. The report alongwith statements of the affected parties received from learned Court below would reveal that the aggrieved person has genuinely effected a compromise with the petitioners and he has no objection if the impugned FIR and consequential proceedings are quashed.

11. Keeping in view totality of the facts and circumstances of the case and taking into consideration the ratio of the judgments in the cases of **Gian Singh (supra)**, **Ramgopal (supra)** and **Kulwinder Singh (supra)**, this petition is accepted and FIR No. 190, dated 02.08.2021 (Annexure P-1), for the offences punishable under Sections 323, 354, 34 of the Indian Penal Code, 1860, and Section 325 of IPC added later on, registered at Police Station Lehra, District Sangrur, and all the consequential proceedings arising therefrom are hereby quashed *qua* the petitioners, in view of compromise dated 22.09.2021 (Annexure P-2).

12. Petition stands disposed of.

(SANJAY VASHISTH)
JUDGE

16.01.2023

Riya

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

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GURSEWAK SINGH @ SEWAK AND ORS. VS STATE OF PUNJAB

AND ANOTHER

Present: None for the petitioners.

Mr. J.S. Arora, DAG, Punjab.

This case has been listed in IOIN for carrying out correction regarding date of order in the order sheet dated 16.01.2023.

This case was listed on 16.01.2023 and in the order sheet, date of order has been wrongly mentioned as ‘15.01.2023’ instead of ‘16.01.2023’, and after signing, same has been uploaded on the webportal of this Court.

I have perused the file and found that only mistake is in respect of typing of date of order, as noticed above, which has occurred due to a typographic error.

Accordingly, it is ordered that the date “15.01.2023”, occurring in the order sheet dated 16.01.2023, be read as “16.01.2023” and after carrying out the correction, correct order be uploaded on the webportal of this Court after deleting the already uploaded order.

IOIN stands disposed of.

(SANJAY VASHISTH)
JUDGE

January 17, 2023

Riya