

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

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CRM-M-30719-2020 (O&M)
Date of decision: 09.08.2023

Surinder Kumar and another

....Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. B.S. Jaswal, Advocate for the petitioners

Ms. Himani Arora, AAG Punjab

Mr. Karan Dhawan, Advocate for respondent Nos.2 to 5

AMAN CHAUDHARY, J.

1. The present petition has been filed under Section 482 of Cr.P.C. for quashing of FIR No.170, dated 05.07.2020, registered under Sections 304-A, 427 IPC at Police Station Gate Hakima, District Amritsar and all other consequential proceedings arising therefrom on the basis of the compromise dated 26.08.2020, Annexure P-3.

2. The brief factual matrix of the case is that upon returning from his work, husband of the complainant stopped near the school entrance to clean his hands and feet at the water pump. Unfortunately, at the same time, the backside wall of the school collapsed due to blowing of high velocity winds and fell on her husband and one Kiran Sharma, his neighbour who was also sitting there.

Consequently, both of them succumbed to death at the Civil Hospital and thus an FIR was got registered on 05.07.2020, Annexure P-1,

3. Learned counsel contends that petitioner No.1 being the Chairman of the Management Committee of Government High School Idgah, Amritsar and petitioner No.2 being the Secretary are not liable in the present case. Realising the fact that such like incidents had occurred at various places in the city and on account of which, the State Government had announced and paid an amount of Rs.4 lakhs as compensation to the family of every deceased, the complainant and her family settled the matter. Accordingly, a compromise was arrived at between the parties within just about 2 months of the incident i.e., on 26.08.2020, Annexure P-2. Pursuant to order dated 01.10.2020, passed by this Court in the present case, the parties got their statements recorded before the trial Court/Illaq Magistrate regarding the compromise. Reliance in this regard is placed on **Tota Singh vs. State of Punjab and others**, CRM-M-26174-2019 dated 20.08.2019; **Sikander Yadav and another vs. State of Haryana and others**, CRM-M-55259-2019 dated 24.02.2023; **Madan Lal and others vs. State of Punjab and another**, CRM-M-3921-2020 dated 01.06.2023. None of them has been declared as proclaimed offender and they are not involved in any other FIR.

3. Learned State counsel assisted by the learned counsel for the respondents also confirm the factum of compromise. Learned counsel for respondent Nos.2 to 5, being the LRs of the deceased, accept receipt of the compensation.

4. Heard learned counsel for the parties and have also gone through the case file.

5. The Full Bench of this Court in **Kulwinder Singh and others vs. State of Punjab**, 2007 (3) RCR (Criminal) 1052, held that High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court is of the view that the same was required to prevent the abuse of the process of law or otherwise to secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

6. Hon'ble The Supreme Court in the case of **Gian Singh vs. State of Punjab and another**, 2012 (4) RCR (Criminal) 543, had observed that in order to secure the ends of justice or to prevent the abuse of process of Court, inherent power can be used by this Court to quash criminal proceedings in which a compromise has been effected. The relevant portion of para 57 of the said judgment reads thus:-

“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. XXX---XXX”

7. It would be apposite to refer to **Ramgopal and Anr. vs. State of Madhya Pradesh**, 2021 SCC Online SC 834, where Hon'ble The Supreme Court after expounding the law on compromise quashing under Section- 320 Cr.P.C., and held thus:

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

Cr.P.C., 1973 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., 1973 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., 1973. 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."

8. The death of the complainant's husband and their neighbour, had taken place on account of the wall of the government high school having collapsed, for which the State had taken responsibility and paid the compensation for the loss. The FIR was registered against the petitioners on 05.07.2020, however, within a month, after the complainant realised that the petitioners were not at fault in any manner, agreed to make a statement in the Court in this regard and thus, a compromise was arrived at between them.

9. In pursuance of order dated 26.08.2020 passed by this Court, the parties got their statements recorded before the trial Court. Report regards to which records that the matter has been amicably settled between the parties and the complainant has no objection in case the FIR in question is quashed. The compromise effected between them is genuine, without any undue influence and coercion.

9. This Court in the case of **Sikander Yadav** (supra), wherein the death had occurred on account of electric shock, while emphasizing the purpose of

criminal jurisprudence to be reformatory in nature and bring peace to the family, community and society, thereby, quashed the FIR registered under Section 304-A IPC. The important aspects observed were that the compromise had taken place without any coercion or dubious means and the accused was not an incorrigible or a professional offender. Similarly in **Madan Lal and others** (supra), also wherein the death had occurred due to electrocution, the proceedings were quashed by this Court qua the petitioners, on the basis of compromise between the parties.

10. In the case of **B.S. Joshi and others v. State of Haryana and another**, 2003 (4) SCC 675 the Hon'ble Apex Court observed that “even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. The Hon'ble Apex Court laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing. In the nutshell, the Hon'ble Apex Court justified the exercise of powers under Section 482 Cr.P.C. to quash the proceedings to secure the ends of justice in view of the special facts and circumstances of the case, even where the offences were non-compoundable.”

11. In view of the afore-referred judgments and perusing the report of the trial Court regarding amicable settlement between the petitioners and the complainant, this Court finds that quashing of FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

12. Resultantly, the present petition is allowed and FIR No.170, dated 05.07.2020, registered under Sections 304-A, 427 IPC at Police Station Gate Hakima, District Amritsar, and all other consequential proceedings arising therefrom are quashed qua the petitioners on the basis of the compromise dated 26.08.2020.

(AMAN CHAUDHARY)
JUDGE

09.08.2023
S.Sharma(syr)

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No