

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

276

CRM-M-33223-2022 (O&M)

Date of decision: 06.02.2023

KASHMIR SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB AND OTHERS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Ms. Amarinder Kaur, Advocate
for the petitioner.

Mr. Kamalpreet Bawa, AAG Punjab.

Mr. Hitesh Verma, Advocate
for the respondent Nos.2 and 3.

AMAN CHAUDHARY. J.

The present petition under Section 482 Cr.P.C. has been filed for quashing of FIR No.70 dated 14.11.2019, registered under Sections 459, 307 and 34 of IPC and Section 25 of Arms Act at Police Station Tallewal, District Barnala and all other consequential proceedings arising therefrom, in view of the compromise deed dated 13.12.2019, Annexure P-2 reached between the parties.

Heard.

It is apposite to make a reference to the judgment of Hon'ble The Supreme Court of India in the case of **B.S. Joshi v. State of Haryana, (2003) 4 SCC 675**, wherein it was 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. It was 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 case of “**Gian Singh Vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, Hon'ble The Supreme Court of India had also 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 paras read 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”

61. 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 proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

Hon'ble The Supreme Court of India in the case of **Yogendra Yadav v State of Jharkhand**, (2014) 9 SCC 653, held that “now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307 of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (*Gian Singh v. State of Punjab*, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a

given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

Learned counsel for the petitioner submits that the petitioner and the complainant are distant relatives, having no history of quarrel prior to the alleged incident. She further submits that two gun shots were attributed to the petitioner on non-vital parts, as one hit on the elbow of the complainant and the other on the right ankle of the wife of the complainant. He further submits that both the injuries have been declared as simple by the doctor in the opinion given to the police. He relies on judgments passed by this Court in case titled as *Manjeet and others versus State of Haryana and others* in CRM-M-6577-2019 and *Aksham Chadha alias Micky and another versus State of Punjab and others* in CRM-M-3209-2021, wherein also the offence was committed under Section 307 IPC and 25 of the Arms Act, but the injury

being on non-vital part, Section 307 IPC was not attracted and FIR was quashed on the basis of compromise.

Adverting to the facts, parties in this case were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise.

Pursuant to the aforesaid order, report dated 30.11.2022 of learned Judicial Magistrate 1st Class, Barnala has been received, which is taken on record. Learned Judicial Magistrate 1st Class has reported that the compromise effected between the parties is voluntary, without any pressure or inducement, accused-petitioners have never been declared as proclaimed offender and they are involved in other cases. The complainant has no objection in case the FIR in question is quashed qua the petitioner(s).

Hon'ble The Supreme Court of India in case of “**Jayrajsingh Digvijaysingh Rana vs State of Gujrat and another**”, 2012(12) SCC 401, held that where there is a partial compromise with some of the accused even then also the proceedings against the said accused should be quashed as the same would not even remotely result in his conviction.

In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant(s), this Court finds that quashing the 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.

Resultantly, the present petition is allowed and FIR No.70 dated 14.11.2019, registered under Sections 459, 307 and 34 of IPC and Section 25 of

Arms Act at Police Station Tallewal, District Barnala and all other consequential proceedings arising therefrom, are quashed qua the petitioner.

(AMAN CHAUDHARY)
JUDGE

February 06, 2023

M.Kamra

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No