

202 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-34338-2022

Date of Decision: 15.02.2023

VARINDER KUMAR AND ORS.

...Petitioner

Versus

STATE OF PUNJAB AND ANR.

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

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

Mr. Mohit Kapoor, Addl.AG, Punjab.

Mr. Awaljot, Advocate for
Mr. Tarun Jhatta, Advocate
for respondent No. 2.

DEEPAK MANCHANDA J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. praying for the quashing of FIR No.244 dated 25.11.2019, registered under Sections 323/324/34 of the Indian Penal Code, 1860, at Police Station Rama Mandi, District Jalandhar, and all the subsequent proceedings emanating therefrom on the basis of compromise (Annexure P-2).

As per allegations the respondent Nos. 2 to 4 alongwith other accompanies held medical camp where they were preparing cards under Ayushman Insurance Scheme, where they were attacked by the petitioners armed with Kirpan, Stick, Knife causing injuries on the left cheek, head of respondent No.2 and also inflicted injuries on accomplices of the respondent No.2.

Vide order dated 04.08.2022, after issuance of notice of motion, Mr. Tarun Jhatta, Advocate has put in appearance on behalf of respondent No. 2 and admitted the factum of compromise and thereafter this Court had directed the parties to appear before the Illaqa Magistrate/trial Court 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 that was 16.11.2022.

In pursuance of the said order, the report forwarded vide letter bearing No. 448 dated 29.10.2022 has been submitted by the Judicial Magistrate 1st Class, Jalandhar, which is on record. The relevant part of the report is reproduced hereinbelow:-

"(a) It is respectfully submitted that as per the statement of investigating officer challan/report u/s 173 Cr.P.C. has not been filed. (b) It is respectfully further submitted that as report w/s 173 Cr.P.C. in the present case has not been presented, so charge has not been drawn against the accused. (c) It is respectfully further submitted that as report u/s 173 Cr.P.C. in the present case has not been presented, so no prosecution evidence has commenced. (d) It is respectfully further submitted that all the concerned have only recorded their statements regarding the compromise and they have not produced any compromise deed before the court."

In compliance of the order dated 04.08.2022, State has filed short reply by way of affidavit dated 20.12.2022 of Nirmal Singh, PPS, Assistant Commissioner of Police, Central Jalandhar wherein it has stated that the matter is at the stage of investigation and challan is yet to be presented.

A perusal of the report received from Judicial Magistrate 1st Class, Jalandhar, 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 have 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 there is no other FIR against the petitioners and they have not been declared as

proclaimed offenders and learned State counsel has not disputed this fact.

Having heard the 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 investigation 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 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-Debita 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-dominatingly 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.”

The aforesaid quoted percept has also been followed in ***State of Madhya Pradesh v/s Lakshmi Narayan (2019)5 SCC 688:-***

“xxx...xxx

29.7. While deciding whether to exercise its power under section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge-sheet has not been filed.

xxx...xxx”

The view taken by this Court also finds support from the recent judgment of the Hon’ble Supreme Court in ***Ram Gopal & Anr. Vs. State of Madhya Pradesh 2021(4) RCR (Criminal) 322***, relevant of which is as under:-

“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.”

In view of the report of Judicial Magistrate 1st Class, Jalandhar, the compromise (Annexure P-2) 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 quashing

of FIR No.244 dated 25.11.2019, registered under Sections 323/324/34 of the Indian Penal Code, 1860, at Police Station Rama Mandi, District Jalandhar, and all the subsequent proceedings emanating therefrom ***are hereby quashed***, qua the petitioners.

(DEEPAK MANCHANDA)
JUDGE

15.02.2023
himanshu/manisha

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