

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

128

CRM-M-32959-2023

Date of Decision: 16.10.2023

Krishan

.... Petitioner

Versus

State of Haryana and another

.... Respondents

CORAM: HON'BLE MS. JUSTICE NIDHI GUPTA

Present: - Mr. Ankit Chahal, Advocate for the petitioner.

Mr. Brijesh Sharma, AAG, Haryana.

Mr. Gurpreet Singh, Advocate for
Ms. Monika, Advocate for respondent No. 2.

NIDHI GUPTA, J. (ORAL)

The petitioner has filed the present petition under Section 482 Cr.P.C., for quashing of FIR No. 01 dated 06.01.2022 (Annexure P-1) registered under Sections 323, 328, 354, 376(2)(n), 376(2)(f), 498-A and 506 read with Section 34 IPC at Women Police Station Jind, District Jind and all the consequential proceedings arising therefrom, on the basis of compromise effected between the parties.

Pursuant to the order dated 12.07.2023 passed by this Court, the parties appeared before the learned Additional District and Sessions Judge, Jind, to get their statements recorded. Learned Additional District and Sessions Judge, Jind, has submitted his report along with statements of the parties vide letter dated 18.08.2023 duly forwarded by the learned

District and Sessions Judge, Jind.

A perusal of the above said report would show that the petitioner and respondent No. 2 have appeared and suffered statements with respect to the compromise, which have been found to be voluntary, genuine, and out of free will.

Learned counsel for the petitioner has submitted that as per report, petitioner is the only accused in the present case and he is party to the compromise and has never been declared as proclaimed offender.

Learned counsel for the State submits that the FIR in question cannot be quashed on the basis of compromise effected between the parties, as the offence under Section 376 IPC is non-compoundable.

This Court has heard the learned counsel for the parties and has perused the file.

In the present case, admittedly the FIR emanates from a matrimonial dispute where the complainant/daughter-in-law has levelled allegations of rape against the petitioner/father-in-law.

In such circumstances, the Hon'ble Supreme Court in ***Madan Mohan Abbot vs State Of Punjab, 2008 (4) SCC 582***, has held that it is advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings. Relevant paragraph of the said judgment is reproduced herein below:-

“5. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was

absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be ruled out. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law. We see from the impugned order that the learned Judge has confused a compounding of an offence with the quashing of proceedings. The outer limit of Rs.250/- which has led to the dismissal of the application is an irrelevant factor in the later case. We accordingly allow the appeal and in the peculiar facts of the case, direct that FIR No.155 dated 17th November 2001 P.S. Kotwali, Amritsar and all proceedings connected therewith shall be deemed to be quashed.”

Reference can also been made to another judgment of the Hon’ble Supreme Court in ***Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC online SC 834***, wherein 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, the Hon’ble Apex Court has held that:

“11. True it is that offences which are ‘noncompoundable’ cannot be compounded by a criminal 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 noncompoundable. 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 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 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."

In this regard 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***, are also relevant.

In view of the above and after perusing the report submitted by the Additional District and Sessions Judge, Jind, this Court finds that the matter has been amicably settled between the petitioner and respondent No. 2. Since the matter has been settled and the parties have decided to live in peace, this Court feels that in order to secure the ends of justice, the criminal proceedings deserve to be quashed.

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 High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the proceedings where the High Court is of the opinion that the same is 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. Hon'ble Apex Court in the case of ***"Gian Singh's case (supra)***, 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 para 57 of the said judgment is

reproduced here-in-below:-

“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 view of what has been discussed here-in-above, this petition is allowed and FIR No. 01 dated 06.01.2022 (Annexure P-1) registered under Sections 323, 328, 354, 376(2)(n), 376(2)(f), 498-A and 506 read with Section 34 IPC at Women Police Station Jind, District Jind, along with all other consequential proceedings arising therefrom on the basis of compromise, are ordered to be quashed qua the petitioner.

16.10.2023
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(NIDHI GUPTA)
JUDGE

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