

CRM-M-37650-2022

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

CRM-M-37650-2022 (O&M)

Date of Decision: 18.04.2023

TARSEM KUMAR BATRA AND ORS.**...Petitioners****Versus****STATE OF PUNJAB AND ANR.****...Respondents****CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Armaan Gagneja, Advocate
for the petitioners.

Mr. Madhur Sharma, AAG Haryana.

Mr. Vineet Sachdeva, Advocate
for the respondent No. 2.

DEEPAK MANCHANDA J. (ORAL)**CRM-7825-2023**

This is an application under Section 482 of Cr.P.C. seeking amendment in the head note of the petition, as there was typographical error on the part of the petitioner, praying for quashing of the case FIR No. 29 dated 15.02.2021 (Annexure P-1) registered under Sections 307/324/323/148/149 (Section 295 IPC added, Section 201 added, Sections 295/307 IPC deleted and Section 295-A of IPC added later on) registered at Police Station City Muktsar, District Sri Muktsar Sahib on the basis of compromise dated 21.08.2022 and further praying that amended head note and prayer clause be taken on record.

For the reasons mentioned in the application, same is allowed.

Amended head note and prayer clause note is taken on record.

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This petition has been filed under Section 482 Cr.P.C. praying for the quashing of FIR No. 29 dated 15.02.2021, registered under Sections

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307/324/323/148/149 (Section 295 IPC added, Section 201 added, Sections 295/307 IPC deleted and Section 295-A of IPC added later on) of the Indian Penal Code, 1860, at Police Station City Muktsar, District Sri Muktsar Sahib and all the subsequent proceedings emanating therefrom on the basis of compromise (Annexure P-2).

Brief facts of the FIR are that wife of the complainant namely Sharanjeet Kaur was contesting election in Ward No. 7 for Municipal Committee and on the day of voting, at about 4.30 PM, complainant was going to his house along with one Randeep Singh of his mohalla. When he reached near Sandhu Palace, then in front of the street, petitioners attacked the complainant and gave *kappa* blow, baseball bat blow and feet blow to the complainant.

Mr. Vineet Sachdeva, Advocate had put in appearance on behalf of respondent No. 2 and admitted the factum of compromise. This Court 24.08.2022, after issuance notice of motion had directed the private parties to appear before the Illaqa Magistrate/trial Court to get recorded their statements and trial court was directed to send its report on the basis of the statements so recorded to this Court, before the next date of hearing.

In pursuance of the said order, the report forwarded vide letter no. 1003 dated 14.11.2022 has been submitted by the Chief Judicial Magistrate, Sri Muktsar Sahib which is on record. The relevant part of the report is reproduced hereinbelow:-

“The undersigned has carefully gone through the statements got recorded by the complainant and accused. Ex-facie, it transpires from the statements of the parties (recorded before the undersigned) that they have arrived at compromise with their free volition, without any inducement, threat, promise, coercion or undue influence from any quarter. Apparently, the compromise has been genuinely arrived at to eliminate bitterness and acrimony between the parties and in order to restore cordial relations.

It is further humbly submitted that this Court was further directed to give the report with regard to any other person has been nominated as accused, whether any person has been declared proclaimed offender, whether any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition. It is humbly submitted that in this regard the statement of ASI Ashok Kumar no.109/SMS, Posted at Police P.S City, Sri Muktsar Sahib was recorded. ASI Ashok Kumar has stated that he is investigating officer in the FIR No.29 dated 15.02.2021 under section 307, 324, 323, 148, 149 of IPC Offence under section 307 of IPC deleted vide DDR no.30 dated 11.5.2021 lateron & Offence under section 295A IPC added lateron in Police Station City, Sri Muktsar Sahib which was registered on the statement of Karamjeet Singh against Tarsem Kumar Batra son of Mukand Lal Batra, Sanam Kumar Batra son of Tarsem Lal Batra, Arsh Kumar Batra son of Tarsem Lal Batra, Jagdeep Singh Kohli son of Mahinder Singh Kohli and Harmanjeet Singh son of Inderjeet Singh. He has further stated that as per the record available in the police station, none of the accused have been declared proclaimed person in this FIR. He has further stated that no other accused involved in the present FIR except the petitioners. He has further stated that no any other complainant or affected/ aggrieved party other than complainant/ respondent.

From the statement suffered by ASI Ashok Kumar who is the Investigating officer of the present case it is found that case was registered on the statement of Karamjeet Singh. As per the version given by ASI Ashok Kumar, as per the record available in the police station, none of the accused have been declared proclaimed person in this FIR. Further from the statement suffered by ASI Ashok Kumar, it transpired that no other accused involved in the present FIR except the petitioners. Further from the statement suffered by ASI Ashok Kumar no other person is affected/aggrieved party other than complainant/respondent.

Hence this report. Photocopies of the statements are enclosed herewith for kind perusal.

Submitted please."

In compliance of the order dated 23.01.2023, State has filed reply by way of affidavit of Jagdish Kumar PPS, Deputy Superintendent of Police, Sub-Division Sri Muktsar Sahib, District Sri Muktsar Sahib vide which it is stated that the challan is yet to be presented. As per para (iii) and (iv) of this reply, offences under Sections 295 and 201 were added in the FIR and later on Section 307 and 295 were deleted and Section 295-A of IPC was added.

A perusal of the report received from Chief Judicial Magistrate, Sri Muktsar Sahib, 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/respondent No. 2 has no objection in case the FIR in question is quashed and none of the petitioners have been declared as proclaimed offender. Report further transpires 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 petitioner and the complainant, where the challan is yet to be presented and by the passage of time, the parties have decided to bury their hatchet and compromise the dispute amicably. Further, initially the FIR was registered under Sections 307, 324, 323, 148 and 149 of Indian Penal Code (Section 295 and 201 IPC added and Sections 295 and 307 deleted and Section 295-A added later on) in Police Station City, Sri Muktsar Sahib which was registered on the statement of Karamjeet Singh. 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-dominantly 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 Chief Judicial Magistrate, Sri Muktsar Sahib and the compromise dated (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 FIR No. 29 dated 15.02.2021, registered under Sections 307/324/323/148/149 (Section 295 IPC added, Section 201 added, Sections 295/307 IPC deleted and Section 295-A of IPC added later on) of the Indian Penal Code, 1860, at Police Station City Muktsar, District Sri Muktsar Sahib and all the subsequent proceedings emanating therefrom **are hereby quashed**, qua the petitioners.

(DEEPAK MANCHANDA)
JUDGE

18.04.2023
Ajay Goswami

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