

249 IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-38362-2022 (O&M)
Date of Decision: 12.05.2023.

CHARANPAL SINGH AND OTHERS

...Petitioners

Versus

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. M.S. Virk, Advocate
for the petitioners.

Mr. Digvijay Nagapal, AAG, Punjab.

Mr. Diwan S. Aulakh, 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.134 dated 07.06.2019, registered under Sections 427, 447, 511, 506, 148 and 149 of the Indian Penal Code, 1860 at Police Sardulgarh, District Mansa and all the subsequent proceedings emanating therefrom on the basis of compromise (Annexure P-2).

Brief facts of the case are that there was a family dispute with respect to 03 acres of land which came to the share of the complainant after partition. Over the said piece of land there was a civil litigation also. Allegations against petitioners are that they armed with dangerous weapons forcefully ploughed aforesaid 03 acres of land and further abused loudly, fired gunshot in front of the house of complainant and threatened them of dire consequences.

Mr. Diwan S. Aulakh, Advocate has put in appearance on behalf of respondent No. 2 and admitted the factum of compromise. This Court on 26.08.2022 issued notice of motion and thereafter on 22.03.2023, had directed the private parties to appear before the Illaqa Magistrate/trial Court on or before within 30 days from the date of order to 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.

In pursuance of the said order, the report of Sub Divisional Judicial Magistrate, Sardulgarh forwarded vide letter no. 188 dated 26.04.2023 has been submitted, which is already on record. The relevant part of the report is reproduced hereinbelow:-

“Further, ASI Maya Ram, No.798/MNS, the Investigating Officer of the case, has suffered statement that I have appeared and brought the record relating to FIR No.134 dated 07.06.2019 ws 427, 447, 511, 506, 148, 149 IPC, Police Station Sardulgarh which was registered on the complaint of Jaswant Kaur w/o Balwinder Singh r/o Ward No.13, Sardulgarh against accused persons namely (1) Charanpal Singh son of Balwinder Singh (2) Balwinder Singh son of Bachittar Singh, both residents of Sardulgarh (3) Kuldeep Singh son of Labh Singh, resident of Ulak (4) Bantu Singh son of Bhola Singh, resident of Kot Dharmu (5) Raghvir Singh son of Makhan Singh, resident of Dharampura, (6) Sudagar Singh son of Gurdev Singh, resident of Ulak, (7) Kuldeep Singh son of Guriant Singh, resident of Jhanduke, (8) Gurpal Singh son of Sukhdev Singh, resident of Dharampura (9) Nirmal

Singh son of Baltej Sigh, resident of Dharampura (10) Parkash Singh son of Bachittar Singh, resident of Malkana (11) Prem Singh son of Balwant singh, resident of Gurusar Jagga (12) Jashanprit Singh son of Jarnail Singh (13) Balwinder Singh son of Hazara Singh alias Gulzar Singh (14) Gurprit Singh son of Kirpal Singh, resident of Nangal Kalan (15) Sukhjit Singh son of Harmander Singh, resident of Jourkian. Jaswant Kaur has now expired and Gurcharan Singh, who is son of Jaswant Kaur is the aggrieved person in the instant FIR. Apart from the said accused persons, there is no other person nominated in this case. As per the record, none of the accused persons have been declared as proclaimed person in this case. The accused and the aggrieved person have mutually agreed over a settlement-cum-compromise out of their free will, volition. He has seen the compromise Ex.PX dated 09.03.2022 which bears the signature of all the accused persons and aggrieved person and appears to have been executed in the presence of witnesses. The compromise between the parties appears to be genuine, voluntary and without any coercion or undue influence. So far as, the previous cases of the accused and their involvement is concerned, he stated that out of all the said accused persons, accused Gurpal Singh is involved in 15 criminal cases i.e. FIR No.121, dated 21.05.2014, under section 25/54/59 Arms Act, Police Station Kalianwali (which has been disposed off), FIR No.219, dated 10.08.2016, under section 25/54/59 Arms Act, Police Station Kalianwali, FIR No.277, dated 01.10.2016, under sections 25/27 NDPS Act, 307, 323, 341, 382, 366, 365, 506 IPC, PS Kalianwali, FIR No.68, dated 04.08.2018, under sections 147, 149, 323, 341, 506 IPC, Police Station Kalianwali, FIR No.515, dated

31.01.2001 under sections 353, 186, 224, 511 IPC, Police Station Kotwali, Bathinda, FIR No.77, dated 30.03.2015, under sections 342, 301, 34 IPC, Police Station Kalianwali, FIR No.20, dated 23.02.2015, under sections 307, 353, 186, 34 IPC, 25/54/59 Arms Act, Police Station Mode, Bathinda (which has been disposed off), FIR No.19, dated 23.02.2005, under sections 392, 452 IPC, 25/54/59 Arms Act, Police Station Mode (which has been disposed off), FIR No.138, dated 08.12.2004, under sections 382, 34 IPC, Police Station Jourkian (which has been disposed off), FIR No.04, dated 06.02.2005 under sections 382 IPC, 25/54/59 Arms Act, Police Station Kot Fatta, Bathinda, FIR No.24, dated 21.02.2005, under section 382 IPC, Police Station Jhunir (which has been disposed off), FIR No.57, dated 21.02.2005, under section 382 IPC, 25/54/59 Arms Act, Police Station Ratia (which has been disposed off), FIR No. 25 dated 05.02.2005, under sections 382, 452 IPC, Police Station Sardulgarh (which has been disposed off), FIR No. 295 dated 29.11.2017, under section 25/54/59 Arms Act, Police Station Kalianwali and FIR No. 227 dated 21.08.2017, under sections 148 149, 324, 326, 341 1PC. 25/54/59 Arms Act, Police Station Sadar Dabwali.

Accused Kuldeep Singh was involved in case bearing FIR No.85 dated 20.07.2005, under sections 326, 323, 148, 149 IPC, Police Station Jourkian and the said case has been disposed off.

Accused Prem Singh has been involved in 04 different FIRs i.e. case bearing FIR No.107 of 2016, under section 363 IPC, Police Station Rama Mandi, FIR No. 69 of 2017, under sections 379, 402 IPC, Police Station City-2 Mansa, FIR No. 130 of 2017, under

sections 323, 324, 427 IPC, Police Station Talwandi Sabo, and FIR No.80 of 2018 under section 25 Arms Act, Police Station Sadar Mansa.

Further, as per the record, there is no other criminal case pending or registered against any other accused persons. FIR was registered on the complaint of Jaswant Kaur since deceased and she was only the victim in this case. Gurcharan Singh is an aggrieved person being the son of late Jaswant Kaur. The case is now at the stage of recording of prosecution evidence.

So, after going through the above statements of Gurcharan Singh being aggrieved person and son of complainant Jaswant Kaur, who has since expired, accused persons/petitioners namely Charanpal Singh, Balwinder Singh son of Bachittar Singh, Kuldeep Singh, Bantu Singh, Raghvir Singh, Sudagar Singh, Kuldeep Singh, Nirmal Singh, Jashanpreet Singh, Balwinder Singh son of Hazara Singh, Gurpreet Singh, Sukhjot Singh and Prem Singh alias Premjit Singh and ASI Maya Ram, the Investigating Officer, this Court is satisfied that the compromise dated 09.03.2022, the copy of which is ExPX, has been effected between Gurcharan Singh being aggrieved person and son of complainant Jaswant Kaur, who has since expired, accused persons/petitioners namely Charanpal Singh, Balwinder Singh son of Bachittar Singh, Kuldeep Singh, Bantu Singh, Raghvir Singh, Sudagar Singh, Kuldeep Singh, Nirmal Singh, Jashanpreet Singh, Balwinder Singh son of Hazara Singh, Gurpreet Singh, Sukhjot Singh and Prem Singh" alias Premjit Singh is genuine, voluntary and without any coercion or undue influence. Further as per the statement of ASI Maya Ram, 15 persons have been arrayed as accused in the instant FIR

and none of the accused has been declared as proclaimed person/offender in this case. Further, as per the statement of ASI Maya Ram, accused Gurpal Singh has been involved in 15 other criminal cases, accused Kuldeep Singh has been involved in one criminal case and accused Prem Singh has been involved in four other criminal cases. Further, complainant Jaswant Kaur who has since expired was the only victim/complainant in this case and the trial is at the stage of recording prosecution evidence. Hence, this report is hereby submitted to your honour, accordingly.”

In compliance with the order dated 26.08.2022, respondent No. 1-State has filed reply dated 08.05.2023, which is already on record, wherein it is stated that the case is at the stage of prosecution evidence.

A perusal of the report received from Sub Divisional Judicial Magistrate, Sardulgarh, 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. They have further stated that the said compromise is genuine, voluntary, and without any coercion or undue influence.

Though complainant has expired on 03.06.2020 however, she is being represented by her son-respondent No.2, in view of the judgment passed by the Hon'ble Supreme Court in ***Duvvu Raja Sekhar @ Raju & Another Vs. State of Andhra Pradesh, 2019 (1) Apex Court Judgments (SC) 281***, wherein it has been held that in terms of Section 320 (4) (b) Cr.P.C, when the person who would otherwise be competent to compound

an offence is dead, the legal representative as defined in the Code of Civil Procedure 1908 of such person may be permitted to enter into compromise with the consent of the Court.

Learned counsel for the petitioners has submitted that petitioner No.7 was involved in one more FIR and the case regarding the same has been disposed of, fifteen more FIRs have been registered against petitioner No.8 and four more FIRs have been registered against petitioner No.11. Further, no other FIR has been registered against petitioner Nos. 1 to 6, 9, 10 and 12 to 15 and petitioners 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 prosecution evidence, 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-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.”

Hon’ble Apex Court further observed in ***State of Madhya Pradesh v/s Lakshmi Narayan (2019)5 SCC 688*** and the relevant portion of the same is reproduced hereinbelow:-

“XXX...XXX

12. Now so far as the conflict between the decisions of this Court in the cases of Narinder Singh (supra) and Shambhu Kewat (supra) is concerned, in the case of Shambhu Kewat (supra), this Court has noted the difference between the power of compounding of offences conferred on a court under Section 320 Cr.P.C. 1973, and the powers conferred under Section 482 Cr.P.C. 1973 for quashing of criminal proceedings by the High Court. In the said decision, this Court further observed that in compounding the offences, the power of a criminal court is circumscribed by the provisions contained in Section 320 Cr.P.C. and the court is guided solely and squarely thereby, while, on the other hand, the formation of opinion by the High Court for quashing a criminal proceedings or criminal complaint under Section 482 Cr.P.C. is guided by the material on record as to whether ends of justice would justify such exercise of power,

although ultimate consequence may be acquittal or dismissal of indictment. However, in the subsequent decision in the case of Narinder Singh (supra), the very Bench ultimately concluded in paragraph 29 as under:

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. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above.

xxx....xxx”

In view of the report of Sub Divisional Judicial Magistrate, Sardulgarh 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 FIR No.134 dated 07.06.2019, registered under Sections 427, 447, 511, 506, 148 and 149 of the Indian Penal Code, 1860 at Police Sardulgarh, District Mansa and all the subsequent proceedings emanating therefrom ***are hereby quashed***, qua the petitioners only.

(DEEPAK MANCHANDA)
JUDGE

12.05.2023

pry

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No