

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

CRM-M-49044-2021

Date of decision: 10.02.2023

Chhinder Singh @ Kala and others

...Petitioners

V/s

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Deepak Aggarwal, Advocate
for the petitioners.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

Mr. Sandeep Sharma, Advocate for
Mr. Akhil Aggarwal, Advocate
for respondent No.2/complainant.

DEEPAK MANCHANDA J. (ORAL)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 74 dated 14.08.2012 registered under Sections 365/323/34 of Indian Penal Code at Police Station Cantt. Bathinda, District Bathinda (Annexure P-1) all subsequent proceedings, including the judgment of conviction and order of sentence dated 11.03.2016 (Annexure P-2) passed by the Judicial Magistrate First Class, Bathinda, appeal thereof is pending before Additional Sessions Judge, Bathinda on the basis of compromise dated 08.09.2021 (Annexure P-4).

Mr. Akhil Aggarwal, Advocate has put in appearance on behalf of respondent No. 2/complainant and admitted the factum of compromise. This Court on 24.11.2021 issued notice of motion and thereafter, on 21.09.2022 had directed the private parties to appear before the trial Court/Illaq Magistrate on 30.10.2022 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 Additional Chief Judicial Magistrate Bathinda, forwarded vide letter no.1980 dated 15.11.2022 has been submitted, which is already on record. The relevant part of the report is reproduced hereinbelow:-

“1. In view of the statement of parties, only three persons namely Chhinder Singh alias Kala (Petitioner No.1), Surinder Singh alias Tinku (Petitioner No.2) and Gurinder Singh alias Vicky (Petitioner No.3) have been arrayed as accused in the present FIR.

2. All the accused i.e. Chhinder Singh alias Kala (Petitioner No.1), Surinder Singh alias Tinku (Petitioner No.2) and Gurinder Singh alias Vicky (Petitioner No.3) and complainant Shahid Khan (Respondent No.3) are party to compromise.

3. In view of the statement of ASI Manphool Singh, No.2201/Bathinda, Police Station Bathinda, no accused has been declared as a proclaimed offender nor any such proceedings are pending.

4. The report under Section 173 Cr.P.C. in the present case FIR was presented and accused were convicted by the Court of Sh. Suresh Kumar, Learned Judicial Magistrate Ist Class, Bathinda on 11.03.2016. The accused persons filed an appeal bearing No. CRA-163-2016 against the judgment and order dated 11.03.2016 which is pending in the Hon'ble Court of Sh.Hira Singh Gill, Learned Additional Sessions Judge, Bathinda and the same is fixed for 20.12.2022.

5. In view of the statement of parties, the statement of parties appears to be bonafide. The statements have been suffered by the parties are genuine, voluntary and out of their free will and same are not the result of any pressure

undue influence or coercion in any manner.”

A perusal of the said report 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.

Learned counsel for the petitioners has submitted that they have not been declared proclaimed offenders nor any such proceedings are pending against them and further, there is no other FIR registered against the present petitioners.

Further, in compliance with the order dated 21.09.2022, respondent No. 1-State has filed reply dated 09.02.2023, which is taken on record, wherein it is sated that no other FIR is registered against the petitioners.

Having heard 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, post conviction, and the parties have decided to bury the hatchet and compromise the dispute amicably. Therefore to prevent the abuse of the process of law and to secure the ends of justice, the aforesaid FIR including the judgment dated 11.03.2016 passed by the learned Judicial Magistrate First Class, Bathinda deserves to be quashed under Section 482 of Cr.P.C., and be set aside which has the magnitude of the inherent jurisdiction of the High Court under it and this Court has the inherent power under Section 482 of Cr.P.C. to quash the same 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 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-Debitia 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 view taken by the Hon'ble Supreme Court regarding quashing of FIRs where compromise is struck, post-conviction, has been discussed in ***Ram Gopal & Anr. V/s State of Madhya Pradesh, 2021(4) RCR (Criminal) 322***, relevant of which is as under:-

“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 extraordinary 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).

Xxxxxxx

20. Having appraised the afore-stated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant (s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.”

In view of the report of Additional Chief Judicial Magistrate

Bathinda, the compromise dated 08.09.2021 (Annexure P-4) and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Consequently, and for the reasons stated above, read with the compromise dated 08.09.2021 (Annexure P-4), this Courts finds it appropriate to invoke the power under Section 482 Cr.P.C. and quash all the subsequent criminal proceedings including the judgment of conviction and order of sentence dated 11.03.2016 in the aforesaid case.

As a sequel thereto, the petition is allowed and all offences emanating out of FIR No. 74 dated 14.08.2012 registered under Sections 365/323/34 of Indian Penal Code at Police Station Cantt. Bathinda, District Bathinda (Annexure P-1) leading to conviction and sentence of the petitioners by the trial Court stand quashed qua the petitioners only and consequently, the judgment of conviction and order of sentence passed by the trial court dated 11.03.2016, are set aside as well.

(DEEPAK MANCHANDA)
JUDGE

10.02.2023
Manisha/sapna

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