

CRM-M-50698-2022 (O&M) &
CRM-M-52573-2022 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

278

CRM-M-50698-2022 (O&M)
Date of decision: 06.02.2023

SOHAIL SHEEMAR

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CRM-M-52573-2022 (O&M)

SIMRAT SINGH

....Petitioner(s)

Versus

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Harvinder Singh Maan, Advocate
for the petitioner in CRM-M-50698-2022.

Mr. Vikram Kumar, Advocate for
Mr. Nikhil Batta, Advocate
for the petitioner in CRM-M-52573-2022.

Mr. Kamalpreet Bawa, AAG Punjab.

Ms. Mandot Kaur, Advocate
for the respondent No.2 in CRM-M-50698-2022.

Ms. Suman Kumari, Advocate
for the respondent No.2 in CRM-M-52573-2022.

AMAN CHAUDHARY. J.

The present petitions under Section 482 Cr.P.C. have been filed for quashing of FIR No.86 dated 14.09.2022, registered Sections 323, 341, 379, 506 and 34 of IPC (Sections 307 and 201 IPC added later on) at Police Station Banur, District SAS Nagar and all other consequential proceedings arising therefrom, in view of the compromise deed Annexure P-2 reached between the parties.

Heard.

It is apposite to make a reference to the judgment of Hon'ble The Supreme Court of India in the case of **B.S. Joshi v. State of Haryana, (2003) 4 SCC 675**, wherein it was observed that even though the provisions of Section 320 Cr.P.C. would not apply to such offences which are not compoundable, it did not limit or affect the powers under Section 482 Cr.P.C. It was laid down that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing.

In the case of “**Gian Singh Vs. State of Punjab and another**”, 2012 (4) RCR (Criminal) 543, Hon'ble The Supreme Court of India 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 paras read thus:-

“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. XXX---XXX”

61. 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 proceedings or continuation of criminal proceedings would tantamount to abuse of process of law despite settlement and compromise between the victim and the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceedings.”

Hon'ble The Supreme Court of India in the case of **Yogendra Yadav v State of Jharkhand**, (2014) 9 SCC 653, held that “now, the question before this Court is whether this Court can compound the offences under Sections 326 and 307

of the IPC which are non-compoundable. Needless to say that offences which are non compoundable cannot be compounded by the court. Courts draw the power of compounding offences from Section 320 of the Code. The said provision has to be strictly followed (Gian Singh v. State of Punjab, 2012(4) R.C.R.(Criminal) 543 : 2012(4) Recent Apex Judgments (R.A.J.) 549 : (2012)10 SCC 303). However, in a given case, the High Court can quash a criminal proceeding in exercise of its power under section 482 of the Code having regard to the fact that the parties have amicably settled their disputes and the victim has no objection, even though the offences are non-compoundable. In which cases the High Court can exercise its discretion to quash the proceedings will depend on facts and circumstances of each case. Offences which involve moral turpitude, grave offences like rape, murder etc. cannot be effaced by quashing the proceedings because that will have harmful effect on the society. Such offences cannot be said to be restricted to two individuals or two groups. If such offences are quashed, it may send wrong signal to the society. However, when the High Court is convinced that the offences are entirely personal in nature and, therefore, do not affect public peace or tranquillity and where it feels that quashing of such proceedings on account of compromise would bring about peace and would secure ends of justice, it should not hesitate to quash them. In such cases, the prosecution becomes a lame prosecution. Pursuing such a lame prosecution would be waste of time and energy. That will also unsettle the compromise and obstruct restoration of peace.”

Learned counsels contends that the petitioner in CRM-M-50698-2022 is a final year BDS student and the petitioner in CRM-M-52573-2022 is a law student and were empty handed at the time of alleged incident, which is apparent from the CCTV footage at the toll plaza and there is no injury caused by them to the complainant. Even otherwise the injuries that had been caused by other co-accused to

CRM-M-50698-2022 (O&M) &
CRM-M-52573-2022 (O&M)

-4-

the complainant were also simple in nature and there is no injury attracting the offence under Section 307 IPC.

Adverting to the facts, parties in this case were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise.

Pursuant to the aforesaid order, reports dated 23.11.2022 of learned Judicial Magistrate 1st Class, SAS Nagar (Mohali) have been received, which are taken on record. Learned Judicial Magistrate 1st Class has reported that the compromise effected between the parties is voluntary, without any pressure or inducement, accused-petitioners have never been declared as proclaimed offender and accused Harwinder Singh is involved in another case. The complainant has no objection in case the FIR in question is quashed qua the petitioner(s).

Hon'ble The Supreme Court of India in case of “**Jayrajsingh Digvijaysingh Rana vs State of Gujrat and another**”, 2012(12) SCC 401, held that where there is a partial compromise with some of the accused even then also the proceedings against the said accused should be quashed as the same would not even remotely result in his conviction.

In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioner(s) and the complainant(s), this Court finds that quashing the FIR will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

Resultantly, the present petitions are allowed and FIR No.86 dated 14.09.2022, registered Sections 323, 341, 379, 506 and 34 of IPC (Sections 307 and

CRM-M-50698-2022 (O&M) &
CRM-M-52573-2022 (O&M) -5-
201 IPC added later on) at Police Station Banur, District SAS Nagar and all other
consequential proceedings arising therefrom, are quashed qua the petitioners in both
the petitions.

(AMAN CHAUDHARY)
JUDGE

February 06, 2023

M.Kamra

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