

255 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M-56047-2022
Date of Decision: 15.02.2023

Neetu Rana @ Nitu Bala and another

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Nimish Gautam, Advocate for
Mr. Dheeraj Mahajan, Advocate
for the petitioners.

Mr. Harjinder Singh Sidhu, AAG, Punjab
for respondent No.1/State.

Ms. Rashika Bansal, Advocate for
Mr. Amit Rana, Advocate
for respondents No.2 and 3.

HARSH BUNGER J. (ORAL)

This is a petition filed on behalf of the petitioners seeking quashing of FIR No.108 dated 10.08.2018 (Annexure P-1), under Sections 323, 341 read with Section 34 of the Indian Penal Code and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Sadar Kharar, District S.A.S. Nagar, Mohali and all the consequential proceedings arising therefrom on the basis of compromise dated 04.07.2022 (Annexure P-2), arrived at between the parties.

The relevant extract of FIR (Annexure P-1) reads as under:-

“Statement of Ravi Singh son of Jang Singh, resident of Cholta Kalan, Police Station Kharar, District SAS Nagar aged about 25 years, Mobile No.81980-13613, stated as, I am

resident of abovementioned address and work as labourer. I got married with Karamjit Kaur, it is the second marriage of Karamjit Kaur on 01.08.2018. I and Karamjit Kaur were present in our home at Cholta Kalan. As we do not have bathroom in our house, so my wife was taking bath beside the wall of the house. Time was around 6.30 PM, Amritpal Singh standing on the roof of the house of our neighbour. I requested Amritpal Singh to get aside as my wife is taking bath. Then our neighbour Neetu who came in the front of house and told, we do not get down from the roof, you do whatsoever you want. Jaskaran Singh son of Karamjit Kaur from her previous marriage was ill, Karamjit Kaur was about to go to get medicine to Jaskaran, then our neighbours Neetu wife of Sunny Rana, resident of Cholta Kalan, Amritpal Singh and Parul niece of Neetu and one more unknown person whom we can recognize if come before us, reached there. Neetu caught my wife from her hair and said that “Bajigarni nu aj change taran swar dinde han”. Thereafter, Amritpal gave fist and kick blows to my wife Karamjit Kaur and Parul also gave slaps on her face. Karamjit Kaur raised raula bachao bachao. I went there and saved my wife from the aforementioned persons. When I was about to take my wife Karamjit Singh to Civil Hospital, Kharar, then aforesaid persons surrounded us and said that “Bajigaran da dimag kharab hoya hai”. They started pushing me and I fell down on the ground. I and Karamjit Kaur saved ourselves with great difficulty after requesting a lot to the Neetu etc. I got Karamjit Kaur admitted in civil hospital, Kharar. I remained busy in the treatment of Karamjit Kaur and in my work. Accused Neetu, Amritpal, Parul and the unknown person have used derogatory words against our caste. Reason behind the occurrence is that Neetu Rana oftenly used to fight with us and also used derogatory words against our caste and we feel bad for the same.”

Vide order dated 15.12.2022, passed by this Court, the trial Court/Illaqa Magistrate was directed to record the statements of the parties with regard to the compromise.

In compliance thereof, the Additional District and Sessions Judge, S.A.S. Nagar (Mohali), vide letter dated 31.01.2023, has submitted a consolidated report, accompanied by copies of the statements of parties concerned and Investigating Officer, which indicates that the parties appeared before the Magistrate and got recorded their respective statements with regard to the validity of the compromise. As per the report, the compromise arrived at between the parties is genuine and with free will and consent. Said report is reproduced as under:

“ - x - x -

To ascertain the fact regarding genuineness of compromise, statement of complainant Ravi Singh, injured/victim Karamjit Kaur and accused Neetu Rana and Gursewak Singh were recorded on 06.01.2023. The complainant Ravi Singh, injured/victim Karamjit Kaur and accused Neetu Rana and Gursewak Singh endorsed the fact that the matter has been compromised between them out of free will and without pressure, coercion or force. The complainant, injured/victim and the accused namely Neetu Rana and Gursewak Singh were duly identified by their counsels. They have also placed on record compromise deed Mark-X duly executed between them out of their free will and consent.

Keeping in view the aforesaid, I am satisfied that the matter has been compromised between the complainant Ravi Singh, injured/victim Karamjit Kaur and accused namely Neetu Rana and Gursewak Singh in FIR No. 108 dated 10.08.2018, under Sections 34, 323, 341 IPC and Section 3 of Scheduled Castes and

Scheduled Tribes (Prevention of Atrocities) Act, Police Station Sadar Kharar and same has been effected voluntarily without any fear, pressure or coercion and out of their free will and is genuine one. Statements of the investigating officer DSP Pall Singh retired, complainant Ravi Singh, injured/victim Karamjit Kaur, and accused namely Neetu Rana and Gursewak Singh of this case are attached herewith as per directions.

It is respectfully further submitted that statements of DSP Pall Singh retired, investigating officer of the present case recorded wherein he stated that he was investigating officer of the present case bearing FIR No. 108 dated 10.08.2018 registered at Police Station Sadar Kharar. In the said case, there are four accused persons namely Neetu Rana, Gursewak Singh, Amritpal Singh and Parul. During investigation, the whereabouts of Parul were not known nor disclosed by any witness. Accused Amritpal has filed writ petition on the basis of compromise before Hon'ble Punjab and Haryana High Court, Chandigarh due to which challan was not submitted against accused Amritpal and kept in column no. 2 for waiting orders of Hon'ble Punjab and Haryana High Court, Chandigarh. Challan was submitted against accused Neetu Rana and Gursewak Singh. Accused Parul and Amritpal Singh were kept in column no. 2 of challan. No other FIR is registered against above said accused except this FIR. He further stated that accused Neetu Rana and Gursewak Singh were never declared as proclaimed offenders in the present case. He further stated that there are total two victims namely Ravi Singh @ Amanjot Singh son of Jang Singh and Karamjit Singh wife of Ravi Singh.

It is respectfully further submitted that as per the statement of the investigating officer, originally the present FIR has been registered against four persons

namely Neetu Rana, Gursewak Singh, Amritpal Singh and Parul. Out of the said accused, during investigation the whereabouts of Parul were not known nor disclosed by any witness. As such, accused Parul has been kept in column no. 2 of report under Section 173 Cr.P.C. Accused Amritpal Singh has filed writ petition on the basis of compromise before Hon'ble Punjab and Haryana High Court, Chandigarh due to which challan was not submitted against accused Amritpal and kept in column no. 2 for waiting orders of Hon'ble Punjab and Haryana High Court, Chandigarh.

It is respectfully further submitted that as per statement of investigating officer, none of the accused has been declared as proclaimed offender till date. There are total two victims namely Ravi Singh @ Amanjot Singh and Karamjit Kaur.

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A perusal of the said report would show that statements of the concerned persons have been recorded in the case, who have stated that the matter has been compromised and they have no objection in case the FIR in question is quashed. They have further stated that the said compromise arrived at between them is genuine, voluntary and without any pressure.

Learned State counsel does not raise any serious dispute regarding quashing of the FIR in question.

Learned counsel appearing for respondents No.2 and 3 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bringing out peace and amity between the parties.

I have heard learned counsel for the parties and perused the file.

In *Shakuntala Sawhney v. Kaushalya Sawhney*, (1979) 3 SCR

Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

“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 exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences 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 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 personnel 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 broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of '**Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another**' (2017) 9 SCC 641', the same are extracted as under:

16. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

16.1 Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

16.2 The invocation of the jurisdiction of the High Court to

quash a First Information Report or a criminal proceeding on the ground that a settlement has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence. While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The power to quash under Section 482 is attracted even if the offence is non-compoundable.

16.3 In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

16.4 While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent an abuse of the process of any court;

16.5 The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

16.6 In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public interest in punishing persons for serious offences;

16.7 As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant

element of a civil dispute. They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

16.8 Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;

16.9 In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

16.10 There is yet an exception to the principle set out in propositions 16.8 and 16.9 above. Economic offences involving the financial and economic well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act complained of upon the financial or economic system will weigh in the balance.

Still further, the Hon'ble Apex Court in ***Ramawatar v. State of Madhya Pradesh 2021(4) RCR (Criminal) 555***, considered the following question:

“whether the power to quash proceedings can be extended to offences arising out of special statutes such as the SC/ST Act?”

While answering the abovesaid question, the Hon'ble Apex Court quashed the criminal proceedings and also set aside the judgments of

conviction and sentence passed by the trial Court as well as the High Court of Madhya Pradesh, by observing as under:-

“15. Ordinarily, when dealing with offences arising out of special statutes such as the SC/ST Act, the Court will be extremely circumspect in its approach. The SC/ST Act has been specifically enacted to deter acts of indignity, humiliation and harassment against members of Scheduled Castes and Scheduled Tribes. The Act is also a recognition of the depressing reality that despite undertaking several measures, the Scheduled Castes/Scheduled Tribes continue to be subjected to various atrocities at the hands of upper castes. The Courts have to be mindful of the fact that the Act has been enacted keeping in view the express constitutional safeguards enumerated in Articles 15, 17 and 21 of the Constitution, with a twin fold objective of protecting the members of these vulnerable communities as well as to provide relief and rehabilitation to the victims of caste-based atrocities.

16. On the other hand, where it appears to the Court that the offence in question, although covered under the SC/ST Act, is primarily private or civil in nature, or where the alleged offence has not been committed on account of the caste of the victim, or where the continuation of the legal proceedings would be an abuse of the process of law, the Court can exercise its powers to quash the proceedings. On similar lines, when considering a prayer for quashing on the basis of a compromise/settlement, if the Court is satisfied that the underlying objective of the Act would not be contravened or diminished even if the felony in question goes unpunished, the mere fact that the offence is covered under a ‘special statute’ would not refrain this Court or the High Court, from exercising their respective powers under Article 142 of the Constitution or Section 482 Cr.P.C...”

Having appraised the aforementioned parameters and weighing upon the peculiar facts and circumstances of the instant case, this Court is inclined to invoke powers under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings for the following reasons:

- i. The very purpose behind Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/Scheduled Tribe community.
- ii. The alleged offence in question does not appear to exhibit the mental depravity of the petitioners.
- iii. The alleged FIR dates back to August, 2018 whereas compromise was effected on 04.07.2022 and there is nothing on record to indicate that either before or after the purported compromise, any untoward incident transpired between the parties. The State counsel has also not pointed out any other occurrence that would lead this Court to believe that the petitioners are either the repeat offenders or are unremorseful about what transpired.
- iv. The petitioners do not suffer any criminal antecedents and are not involved in any other case.
- v. The complainant and victim have, on their own free will and without any compulsion, entered into a compromise and wish to drop the present criminal

proceedings against the accused/petitioners.

vi. The complainant and victim are not likely to support the case of prosecution and continuation of the proceedings is likely to be a waste of judicial time.

vii. The object of law is well served when the parties resolve their differences and chose to peacefully co-exist and live in harmony.

viii. The grievances having been resolved, no interest of justice would be served by forcing the petitioners to undergo the rigours of criminal proceedings.

ix. The petitioners and the complainant as well as victim are residents of the same area/town and are living in vicinity to each other. This Court has no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to advance peace and harmony, it will be prudent to effectuate the present settlement.

x. The cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties.

For the reasons stated above, the present petition is allowed.

FIR No.108 dated 10.08.2018 (Annexure P-1), under Sections 323, 341 read with Section 34 of the Indian Penal Code and Section 3 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, registered at Police Station Sadar Kharar, District S.A.S. Nagar, Mohali, and all the consequential proceedings arising therefrom, are quashed qua the

petitioners. However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioners with the **“Poor Patients' Welfare Fund, PGIMER, Chandigarh”** and the said amount would be spent for the treatment of poor patients within the knowledge of its Medical Superintendent.

Present petition is disposed of in the aforesaid terms.

All pending application(s), if any, shall also stand disposed of.

15.02.2023

Apurva

(HARSH BUNGER)
JUDGE

1. Whether speaking/reasoned : Yes/No
2. Whether reportable : Yes/No