IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

256 **CRM-M-56962-2022 (O&M)**
Date of Decision: 03.05.2023

BALVIR SINGH

…Petitioner

VERSUS

STATE OF PUNJAB AND ANR

…Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Hitesh Verma, Advocate
for the petitioner.

Mr. Gurdarshan Singh Sidhu, AAG Punjab.

Mr. Munish Raj, Advocate for
Ms. Amarinder Kaur, Advocate
for respondent No.2.

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DEEPAK MANCHANDA J. (ORAL)

This petition has been filed under Section 482 Cr.P.C. praying for the quashing of FIR No. 78 dated 08.08.2015 under Sections 465, 467, 471 and 120-B of IPC, registered at Police Station Tappa Mandi, District Barnala and all the subsequent proceedings emanating therefrom on the basis of compromise (Annexure P-2).

As per allegations levelled in the FIR, petitioner in connivance of other co-accused impersonated himself as Balvir Singh S/o Bhagwan Singh in order to grab the land of the complainant.

Ms. Amrinder Kaur, Advocate had put in appearance on behalf of respondent No. 2 and admitted the factum of compromise. Vide order dated 13.12.2022, after issuance notice of motion, this Court 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

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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 Endst. no. 82 dated 05.01.2023 has been submitted by the Additional Civil Judge (Sr. Division), Barnala, which is on record. The relevant part of the report is reproduced hereinbelow:-

> *"Statement of Sub-Inspector Gurpal Singh No.421/BNL has also been recorded, who stated that the said accused namely Balvir Singh son of Mahinder Singh resident of Pakhon Kalan, Tehsil Tapa, District Barnala is not proclaimed offender in this case and proclamation proceedings are not pending against said accused in this case. No other criminal proceedings pending against the above said accused person. Except complainant Jaswant Kaur alias Tej Kaur, no other person is there in the FIR. (Statement of Sub- Inspector Gurpal Singh No.421/BNL recorded and attached with the report).*
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> *From the statements recorded in the Court, it appears that the compromise effected between the complainant & only accused namely Balvir Singh son of Mahinder Singh is genuine, without any pressure and coercion or undue influence. The statements recorded by the parties are enclosed herewith."*

In compliance of the order dated 13.12.2022, reply dated 24.02.2023 on behalf of respondent No.1-State has been filed, vide which the matter is stated to be at the stage of recording of prosecution evidence.

A perusal of the report received from Additional Civil Judge (Sr. Division), Barnala 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 petitioner has 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 petitioner has submitted that there is no other FIR against the petitioner and he has not been declared as proclaimed offender and learned State counsel has not disputed this fact.

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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 case is at the stage of recording the 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 inherent jurisdiction of the High Court under it and this Court has the 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*

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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 if 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

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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-dominatingly 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

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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

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

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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 Additional Civil Judge (Sr. Division), Barnala and 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. 78 dated 08.08.2015 under Sections 465, 467, 471 and 120-B of IPC, registered at Police Station Tappa Mandi, District Barnala and all the subsequent proceedings emanating therefrom ***are hereby quashed***, qua the petitioner.

(DEEPAK MANCHANDA)
JUDGE

May 03, 2023
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Whether speaking/reasoned Yes/No
Whether reportable Yes/No

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