

CRM-M-50379-2019

**241-2 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M-50379-2019
Date of Decision: 12.04.2023**

GURDEEP SINGH AND ORS

....Petitioner(s)

Versus

STATE OF PUNJAB AND ORS

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr. Yangyaang Ajay, Advocate
for the petitioners in CRM-50379-2019.

Mr. Madhur Sharma, AAG, Punjab.

Mr. Rishabh Gupta, Advocate for
Mr. Kawaljyot Singh, Advocate
for respondent Nos.2 to 6.

DEEPAK MANCHANDA, J. (Oral)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR No.49 dated 30.04.2016, registered under Sections 307 and 34 of the Indian Penal Code read with Section 27 of the Arms Act at Police Station Goraya, District Jalandhar Rural and all the subsequent proceedings emanating therefrom on the basis of compromise dated 18.11.2019 (Annex-ure P-2).

That the brief facts of the case are that on 30.04.2016, complainant-Navdeep Singh went for sale & purchase of the tractor along with others and on the way a fight took place wherein a shot was fired from the revolver which hit the respondent No.5 on his right hand. In the fighting persons from both sides received injuries. Thereafter, the accused fled from the scene and the respondent No.5 was admitted to the hospital and a FIR got registered on the complaint of respondent No.5, and also a cross case

vide DDR No.04 dated 01.05.2016 was registered on the statement of petitioner No.1-Gurdeep Singh.

Mr. Rishabh Gupta, Advocate for Mr. Kawaljyot Singh, Advocate had put in appearance on behalf of respondent Nos.2 to 6 and admitted the factum of compromise. This Court on 27.11.2019, issued notice of motion and thereafter on 05.12.2019 directed the private parties to appear before the trial Court/Duty Magistrate 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 forwarded vide letter no. 127 dated 14.01.2020 has been submitted by the District & Sessions Judge, Jalandhar, which is on record. The relevant part of the report is reproduced hereinbelow:-

“In reply to the point No.(i), it is submitted that from the statement of the parties, it appear that the parties have effected compromise voluntarily and it is genuine.

In reply to the point No.(ii), it is submitted that there are two accused namely Gurdeep Singh, Taranveer Singh.

In reply to the point No.(iii), it is submitted that a report was called from the police and as per report submitted by the police (copy enclosed), no other proceeding is pending against the accused.

In compliance with the order dated 27.11.2019, reply dated 22.09.2022 on behalf of respondent No.1-State has been filed and it is stated that the matter is at the stage of recording prosecution evidence and there is no other FIR registered against the petitioners. It is further submitted that

during investigation one injury was declared inflicted on respondent No.5-Navdeep Singh which was simple in nature whereas, on the petitioner side, petitioner No.1-Gurdeep Singh received six injuries out of which two were found to be grievous in nature and the rest of injuries were simple in nature, alongwith, petitioner No.2-Taranveer Singh also received two injuries, both simple in nature.

A perusal of the said report submitted by learned District & Sessions Judge, Jalandhar would show that statements of the concerned persons have been recorded in this case, who have stated that the matter has been compromised and respondents No.2 to 6 have 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 there is no other FIR registered against the petitioners. Also, the petitioners have not been declared as proclaimed offenders in this case or in any other case 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 recording 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

13. Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

i) that the power conferred under section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having

overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

ii) such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

iii) similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

iv) offences under section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under section 307 IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under section 482 of the Code, on the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because there is a mention of section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to framing the charge under section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

v) while exercising the power under section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.

xxx...xxxx”

In view of the report of learned District & Sessions Judge,

Jalandhar, the compromise (Annexure P-2) and the principles laid down in

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conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Therefore, this petition is allowed FIR No.49 dated 30.04.2016, registered under Sections 307 and 34 of Indian Penal Code read with Section 27 of the Arms Act at Police Station Goraya, District Jalandhar Rural and all the subsequent proceedings emanating therefrom ***are hereby quashed***, qua the petitioners.

12.04.2023/shruti

(DEEPAK MANCHANDA)
JUDGE