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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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Date of decision: 28.10.2024

Gurmeet Singh

...Petitioner

V/s

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Priyavrat Prashar, Advocate for the petitioner.
Ms. Priyanka Sadar, AAG Haryana.
Mr. Ashish Pundir, Advocate for respondent No.2.

SUMEET GOEL, J. (Oral)

1. The present revision petition has been preferred against the order of conviction as also order of sentence dated 27.07.2006 passed by Chief Judicial Magistrate, Kaithal & judgment (in appeal) dated 21.03.2009 passed by Sessions Judge, Kaithal. Vide the order of conviction dated 27.07.2006 passed by the Chief Judicial Magistrate, Kaithal; the petitioner was committed for the offence punishable under Section 494 of IPC whereas the other accused have been acquitted of the charges framed against them. Vide order of sentence of even date passed by Chief Judicial Magistrate, Kaithal, the accused (petitioner herein) was sentenced to undergo simple imprisonment for a period of three years and to pay a fine of Rs.2,000/- and in default whereof, he was further directed to undergo simple imprisonment for six months. Further; vide judgment dated 21.03.2009 passed in an appeal preferred before the Sessions Court, Kaithal, the sentence awarded by the trial Court for the offence *ibid* was modified and the same was reduced

to two years instead of three years.



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2. During the pendency of the present revision petition, an amicable settlement was stated to have been arrived at between the parties in pursuance whereof one application i.e. CRM-36812-2024 was preferred praying for compounding/disposing off the instant revision petition in view of the compromise deed dated 10.06.2024 (Annexure A-1) as well as the grounds mentioned therein.

3. On 30.09.2024, the following order was passed in this case:-

“The parties are directed to get their statements recorded qua the factum of compromise in the following manner:

(i) The petitioner shall appear before CJM, Kaithal/Duty Magistrate, Kaithal on 04.10.2024 or any date thereafter as fixed by CJM, Kaithal/Duty Magistrate, Kaithal for recording statement of the petitioner as well as of the complainant qua the factum of compromise. As and when any such appearance is made, the CJM, Kaithal/Duty Magistrate, Kaithal shall do the needful for recording the statements of the parties qua the factum of the compromise. It shall be open to the CJM, Kaithal/Duty Magistrate, Kaithal to either record the statement of the parties by physical process or by video conferencing as deemed appropriate by the CJM, Kaithal/Duty Magistrate, Kaithal.

(ii) In case the statement is to be recorded by way of video conferencing, the parties concerned shall be duly identified through video conferencing by their respective counsel, subject to the satisfaction of the Presiding Officer.

(iii) The CJM, Kaithal/Duty Magistrate, Kaithal may also choose to get the statements of the parties recorded through some Commissioner, appointed by the Court who would be some Advocate having sufficient standing at the Bar. In case the statement is recorded through some Commissioner, such Commissioner/Advocate shall furnish an affidavit after recording statements to the effect that the parties had appeared before him/her and he/she had recorded their statements as per law and that the said parties had been duly identified by their respective



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counsel. This shall be subject to satisfaction of CJM, Kaithal/Duty Magistrate, Kaithal.

After recording the statements of all the affected parties in either of the aforesaid manner, the CJM, Kaithal/Duty Magistrate, Kaithal shall submit its report on the basis of the statements so recorded as to whether all the affected parties have entered into a compromise and as to whether the compromise in question is found to be a valid compromise and has been effected without there being any kind of influence or coercion.

The CJM, Kaithal/Duty Magistrate, Kaithal shall also report as regards the following facts after seeking information from Investigating Officer, concerned:

(i) Whether there is any other accused other than the petitioners, arrayed in this petition.

(ii) Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition.

(iii) Whether any accused has been declared Proclaimed Offender?

The report be submitted before this Court before the next date of hearing i.e. 28.10.2024.”

4. Pursuant to the aforesaid order, report dated 08.10.2024 of Chief Judicial Magistrate, Kaithal has been received which is taken on record. As per the report, the said Court has recorded as follows:

“.....In compliance thereto, convict/petitioner Gurmeet Singh and complainant/prosecutrix Gurmeet Kaur appeared before me on 7.10.2024 represented by their respective counsels, who filed power of attorneys on their behalf. On such appearance, statement of complainant/prosecutrix Gurmeet Kaur, duly identified by her counsel, was recorded. Separate statement of convict/petitioner Gurmeet Singh was also recorded. The said statements in original are enclosed herewith for kind consideration. From the aforesaid statements suffered by the parties, I am of the view that the said compromise has been arrived at by the parties voluntarily without any inducement, threat/coercion or promise and they have stood by the said compromise at the time of their examination and recording of statements before this Court.”



5. Learned counsel for respondent No.2 admits the fact of parties having compromised and states that he has no objection in case the impugned orders as well as other incidental proceedings relating to the impugned orders of convictions are set-aside.

6. Similarly, learned State counsel has stated no objection in case the impugned orders are quashed based upon the compromise.

7. I have heard learned counsel for the parties and have carefully gone through the records of the case.

8. This Court and the Apex Court has repeatedly dealt with the issue of exercise of jurisdiction under Section 482 of the Code to quash proceeding in non-compoundable offences in the cases of ***Gian Singh vs. State of Punjab and another, 2012(10) SCC 303*** and ***Kulwinder Singh & others vs. State of Punjab & another, 2007 (3) RCR (Criminal) 1052***. The proposition of law that emerges from the aforesaid decisions rendered by Apex Court and this Court is:

(a) Power u/s 482 Cr.P.C. vested with this Court is much wider and is unaffected by Section 320 of the Code.

(b) However, wider the power greater the caution.

(c) The underlining principle while exercising such power is that it can be invoked to quash the proceedings recognizing compromise between the parties in the matters which are overwhelmingly and predominantly of civil character like commercial transactions or arising out of matrimonial relationship or family disputes.

(d) The said power is not to be exercised in the prosecutions involving heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc. as such offences are not private in nature and have a serious impact on society.

(e) Section 482 Cr.P.C. casts duty upon the High Court to advance interest of justice as well. It is in recognition of this duty casted upon the High Court, that Apex Court held that the High Court would not refuse to quash FIR



under Section 307 merely because FIR finds mention thereof. High Court can assess nature of injuries sustained, whether such injuries inflicted on vital/delicate parts of the body/nature of weapons used etc.

(f) Such exercise at the hands of High Court would be permissible only after the evidence is collected after investigation and chargesheet is filed/charges framed during the trial. Such exercise cannot be carried out while the matter is still under investigation.

(g) While quashing FIR in non-compoundable offences even which are private in nature, High Court is required to consider antecedents of the accused, conduct of the accused and whether he was absconding or whether he has managed the complainant to enter into a compromise.

The statutory provision of Section 528 of BNSS, 2023 is same as the statutory provision of Section 482 of Cr.P.C., 1973. Therefore, the above said principles of law would apply to an exercise of power under Section 528 of BNSS, 2023 as well.

9. At this juncture, it would be apposite to refer herein to a judgment passed by the Hon'ble Supreme Court titled as ***Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322 (Criminal Appeal No.1489 of 2012 decided on 29th of September, 2021)***, the relevant whereof reads as under:

“12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non heinous



*offences or where the offences are predominantly 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).**”*

9.1. The inherent jurisdiction under section 528 BNSS, 2023/Section 482 Cr.P.C., 1973 is primarily aimed at preventing abuse of judicial process and securing the ends of justice. Thus, when the dispute is essentially personal in nature and a genuine compromise has been reached, the high court may intervene to quash the conviction recognizing the continued proceedings would be non-productive and unjust in the given circumstances. The inherent powers of a High Court are powers which are incidental replete powers, which if did not so exist, the Court would be obliged to sit still and helplessly see the process of law and Courts being abused for the purposes of injustice. In other words; such power(s) is intrinsic to a High Court, it is its very life-blood, its very essence, its

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immanent attribute. Without such power(s), a High Court would have form but lack the substance. These powers of a High Court hence deserve to be construed with the widest possible amplitude. These inherent powers are in consonance with the nature of a High Court which ought to be, and has in fact been, invested with power(s) to maintain its authority to prevent the process of law/Courts being obstructed or abused. It is a trite posit of jurisprudence that though laws attempt to deal with all cases that may arise, the infinite variety of circumstances which shape events and the imperfections of language make it impossible to lay down provisions capable of governing every case, which in fact arises. A High Court which exists for the furtherance of justice in an indefatigable manner, should therefore, have unfettered power(s) to deal with situations which, though not expressly provided for by the law, need to be dealt with, to prevent injustice or the abuse of the process of law and Courts. The juridical basis of these plenary power(s) is the authority; in fact the seminal duty and responsibility of a High Court; to uphold, to protect and to fulfill the judicial function of administering justice, in accordance with law, in a regular, orderly and effective manner. In other words; Section 528 of BNSS, 2023 reflects peerless powers, which a High Court may draw upon as necessary whenever it is just and equitable to do so, in particular to ensure the observance of the due process of law, to prevent vexation or oppression, to do justice *may* substantial justice between the parties and to secure the ends of justice. Therefore, the High Court, in the exercise of its inherent power under section 528 BNSS, 2023/Section 482 Cr.P.C, 1973 has the discretion to quash a

conviction where the parties have reached an amicable settlement, provided



such compromise does not impinge upon the public interest or undermine justice, as well as the substantial justice.

10. Thus, keeping in view the aforesaid facts and circumstances, this Court is of the considered opinion that it is a fit case to exercise jurisdiction vested under Section 528 of BNSS to set-aside the orders passed by both the Courts below as:-

- (i) Putting a quietus to the proceedings will bring peace and tranquility amongst parties & will accordingly further the cause of substantial justice.*
- (ii) The offences alleged are primarily of private nature.*
- (iii) The parties have compromised.*
- (iv) As per the report received the compromise is said to be voluntary in its nature.*
- (v) Complainant/victim is reported to have entered into compromise on his own volition.*

11. Consequently, the instant revision petition is allowed and the impugned order of conviction dated 26.07.2006 as also order of sentence dated 27.07.2006 passed by Chief Judicial Magistrate, Kaithal & the judgment (in appeal) dated 21.03.2009 passed by Sessions Judge, Kaithal are hereby set-aside and the petitioner is acquitted of the charge under Section 494 of IPC.

(SUMEET GOEL)
JUDGE

October 28, 2024
Ajay

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