

2024:PHHC:133290



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR 1676-2024 (O&M)
Date of Decision:03.10.2024

Nachatter Singh ...Petitioner
Versus
State of Punjab and another ... Respondents

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

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

Mr. M.S. Bajwa, DAG, Punjab.

Ms. Poonam Verma, Advocate, for respondent No. 2.

N.S.SHEKHAWAT, J. (Oral)

CRM 37260 of 2024

1. Allowed, as prayed for.
2. Main Case is taken up for hearing today itself.

CRR 1676-2024

1. The petitioner had filed the present petition against the impugned judgment dated 27.08.2024 passed by the Court of Additional Sessions Judge, Barnala, whereby, the petitioner was convicted for the offence punishable under Section 420 IPC and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs. 10,000/- alongwith default stipulation.

2. During the pendency of the main petition, the petitioner filed an application under Section 359 of BNSS read with Section 528 of BNSS seeking permission of this Court to compound the offence in the present case. Consequently, vide order dated 13.09.2024, this Court had directed the parties to appear before the trial Court/CJM for recording their statements qua the compromise in the present case and the trial Court/CJM was also directed to submit a report on or before next date of hearing.

3 In compliance of the order dated 13.09.2024, the petitioner as well as the complainant side appeared before the Court of Judicial Magistrate 1st Class, Barnala and submitted that the parties had compromised the matter with each other and the complainant admitted his signatures on the compromise deed dated 10.09.2024. After recording the statements of both the parties as well as the Investigating Officer of the case, the Court of Judicial Magistrate 1st Class, Barnala, submitted a report that the compromise between the parties appeared to be genuine, valid, voluntary and not as a result of fraud. It was also submitted that the victim in the present case had been made party in the present case.

4. Even during the course of proceedings today, a short reply has been filed on behalf of respondent No. 2 and the same is taken on record. Even, learned counsel appearing on behalf of respondent No. 2 submits that the matter has been amicably settled

between the parties vide compromise deed (Annexure P-2) and the respondent No. 2 had no objection if the offence is compounded and the petitioner is acquitted in the present case.

4. I have heard the submissions made by learned counsel for both the parties and perused the record carefully.

5. It has been held by this Court in the matter of **Sube Singh and another Vs. State of Haryana and another, 2014(2) Crimes 299** as follows:-

*“11. The extent and sweep of inherent power exercisable by the High Court under Section 482 Criminal Procedure Code for quashing the criminal proceedings on the basis of compromise between the offender and the victim of crime in a case which is not compoundable under Section 320 Cr.P.C., has since been considered in extenso and answered by the Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Anr., (2012)4 RCR (Criminal) 543**, laying down that the compounding of offence and quashing of criminal proceedings are two separate things and not interchangeable and that the two powers are distinct and different although ultimate consequence may be the same. It has been authoritatively ruled that where the offender and victim have settled their dispute, the High Court in exercise of its inherent power under Section 482 Cr.P.C., is competent to quash criminal proceedings even relating to the non-compoundable offences though such a power need to be invoked sparingly and not when the offences*

are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The pronouncement thus says :-

"52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 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 offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion,

continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under Indian Penal Code or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any

likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

*12. The decision in Gian Singh's case (supra) also approves the view taken by a five-Judge Bench of this Court in **Kulwinder Singh & Ors. v. State of Punjab & Anr., 2007(3) RCR (Criminal) 1052.***

13. It is indeed now unarguable to say that the power exercisable by the High Court under Section 482 Criminal Procedure Code for the quashing of criminal prosecution is limited or affected by the provision of Section 320 Cr.P.C".

6. In the present case also, the parties have amicably settled the matter in terms of the compromise deed (Annexure P-2). Moreover, the Court of Judicial Magistrate 1st Class, Barnala, has also recorded the satisfaction that the compromise between the parties appears to be genuine, valid, voluntary and not as a result of fraud and coercion. Thus, this Court finds that it will be in the larger interest of justice, if the prayer for compounding, is accepted.

7. For the reasons recorded above, the present revision is allowed and the impugned judgment dated 27.08.2024 passed by the Additional Sessions Judge, Barnala, is set-aside and, as a consequence thereof, the petitioner stands acquitted of the charge.

8. All pending application, if any, are disposed of, accordingly.
9. The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

03.10.2024
amit rana

(N.S.SHEKHAWAT)
JUDGE

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