



**247 IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CRM-M-45886-2024

Date of Decision: 07.01.2025

Mohit Thopta

...Petitioner

Versus

Union Territory Chandigarh and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present:- Mr. Ranbir Singh Rawat, Advocate
for the petitioner.

Mr. J.S. Toor, Addl. P.P., U.T. Chandigarh and
Mr. Adhiraj Toor, Advocate
for respondent No.1-U.T. Chandigarh.

Mr. S.S. Aviraj, Advocate
for respondents No.2 to 4.

RAJESH BHARDWAJ.J (Oral)

1. Instant petition has been filed seeking quashing of FIR No.70 dated 11.05.2017, under Sections 279, 337 and lateron added Section 338 IPC and Section 3 & 181 of M.V. Act, registered at Police Station Sector-26, Chandigarh along with other consequential proceedings including the order and judgment dated 04.02.2022 passed by Additional Chief Judicial Magistrate, Chandigarh, whereby the petitioner has been convicted and sentenced to undergo RI for one year under Section 338 IPC and for 06 months RI under Sections 279, 337 and Section 181 MV Act, as continuation of the same would tantamount to grave injustice and abuse of porcess of law in view of the compromise dated 13.08.2024.

2. The present FIR was registered in this case on the statement of Ajay Kumar s/o Ram Rattan, wherein it was stated that on 08.05.2017, the petitioner while driving a Scorpio car in a rash and negligent manner, hit the



bike of his friend Umesh and caused injuries to him near Sector 27/28 light point and thereafter the driver of the offending vehicle fled away from the spot. Thereafter, the FIR was registered under Sections 279/337 IPC and later on offence under Section 338 IPC was also added. On completion of investigation, challan was presented and after completion of trial, the petitioner was convicted and sentenced vide judgment dated 04.02.2022 to undergo RI for a period of 02 years.

3. Learned counsel for the petitioner submits that the parties have compromised the matter and respondents No.2 to 4 does not want to prosecute the petitioner anymore and have no objection if the order of conviction and sentence dated 04.02.2022 passed by the Additional Chief Judicial Magistrate, Chandigarh is set aside. He has further stated that in order to enhance the peace and harmony among the parties, the present petition is liable to be accepted and the FIR, detailed above, along with order of conviction and sentence dated 04.02.2022 are liable to be quashed.

4. Learned counsel for respondents No.2 to 4 has supported the contentions of learned counsel for the petitioner, whereas, learned State counsel has opposed the same.

5. This Court vide order dated 16.09.2024 directed the parties to appear before the Trial Court/Illaq Magistrate/Duty Magistrate for recording their statements, as contended before the Court, and the trial Court/Illaq Magistrate/Duty Magistrate was also directed to send its report.

6. In pursuance to the same, learned Additional Chief Judicial Magistrate, Chandigarh has sent the report dated 01.10.2024 to this Court. With the report, he has also annexed the original joint statement of respondents No.2 to 4, namely, Ajay Kumar (Complainant), Umesh Kumar



and Sumesh Chander; statement of petitioner, namely, Mohit Thopta recorded on 30.09.2024. On the basis of the statements, learned Additional Chief Judicial Magistrate, Chandigarh has concluded in the report that the compromise effected between the parties is genuine, Volunteer and out of their own free Will and without any pressure, threat or coercion from any side. It has been mentioned that there is only one accused i.e. the petitioner involved in the present FIR, who has compromised the matter with the respondents and as per the statements of the parties, no proclamation proceedings is pending against the accused. It has further been mentioned that the charges under Sections 279, 337 and 338 IPC and 3/181 of M.V. Act, were already framed.

7. I have heard learned counsel for the parties, perused the record and the report sent by learned Additional Chief Judicial Magistrate, Chandigarh.

8. A bare perusal of statutory provision of the 528 of B.N.S.S. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 359 B.N.S.S. is also relevant for consideration, which prescribes the procedure for compounding of the offences under the Bharatiya Nyaya Sanhita.

9. Hon'ble Supreme Court in **Ramgopal and another V. State of Madhya Pradesh (supra)** has held as under:

“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., 1973 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., 1973 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. v. State of Punjab & Ors.*, (2014) 6 SCC 466 and *Laxmi Narayan (Supra)*.

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19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C., 1973 or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C., 1973. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.”



10. Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466***; ***B.S.Joshi and others vs State of Haryana and another (2003) 4 Supreme Court Cases 675*** followed by this Court in Full Bench case of ***Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052*** have dealt with the proposition involved in the present case and settled the law.

11. Thereafter, Hon'ble Supreme Court in ***Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303*** further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in ***State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335***. Para 61 of the judgment reads as under:-

“61. 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 a 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, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the 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 the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

12. Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court, it is apparent that when the parties have entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the



prayer of the petitioners by quashing the FIR would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 528 of B.N.S.S.

13. As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, FIR No.70 dated 11.05.2017, under Sections 279, 337 and lateron added Section 338 IPC and Section 3 & 181 of M.V. Act, registered at Police Station Sector-26, Chandigarh along with other consequential proceedings including the order and judgment dated 04.02.2022 passed by Additional Chief Judicial Magistrate, Chandigarh, are hereby quashed qua the petitioner on the basis of compromise. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

14. Petition stands allowed.

07.01.2025

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(RAJESH BHARDWAJ)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No