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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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Date of Decision: 07.01.2025

PARGAT SINGH AND ORS

.. Petitioners

Vs.

STATE OF PUNJAB AND ORS

..Respondents

CORAM: HON'BLE MR. JUSTICE SUMEET GOEL

Present: Mr. Baljinder Singh Singhvi, Advocate for the petitioners.

Mr. Yuvraj Singh Tiwana, Asstt. A.G., Punjab.

Mr. Talwinder Singh, Advocate
for respondents No.2 to 4.

...

SUMEET GOEL, J. (Oral)

1. The present petition has been filed under Section 528 of BNSS, 2023 for quashing of FIR No.50 dated 14.06.2016 under Sections 420, 465, 467, 468, 471 and 120-B of IPC, registered at P.S. Sadar Moga, District Moga as well as judgment of conviction and order of sentence dated 02.01.2024 (Annexure P-2) passed by Id. Addl. CJM, District Moga and all consequential proceedings arising therefrom on the basis of compromise (Annexure P-3).

2. On 22.11.2024, the following order was passed:

“The petitioners arraigned as accused in the FIR captioned below have come up before this Court under Section 528 BNSS to quash the FIR and all consequential proceedings based on the compromise amicably arrived at with the victim(s).

State counsel has opposed the present petition on the ground that one of the accused namely Jasveer Kaur wife of Pargat Singh has not been made party and partial compromise cannot take place and other convicts have filed an appeal which is pending before the Sessions Court.

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Counsel for the petitioners has referred to CRM-M No.38140 of 2011 decided on 09.04.2013 in which Division Bench of this Court explicitly stated that High Court has power to compromise the matter even when the conviction appeal is pending before the Sessions Court. As concerned for Jasveer Kaur, she has already been acquitted.

Notices served upon the official respondent through the State's counsel. In case the State wants to file its response, they must do so positively before the next date. The counsel appearing for the private respondent(s) states on instructions that there is no objection if the FIR and all consequent proceedings mentioned in this petition are quashed.

Given above, the petitioner(s) and the private respondent(s), and all other victim(s), if not arraigned as respondents, to appear before the concerned Trial Court/Illaq Magistrate/Duty Magistrate on 02.12.2024 for getting their statements recorded about the compromise arrived at between them. Before recording their statements, the Ld. Judge should ensure the following aspects and send the copies of the statements and the report in the following format, preferably before the next date fixed in this court:

Name of the reporting Court	

FIR No.	Dated	Police Station	Sections
50	14.06.2016	Sadar Moga, District Moga	420, 465, 467, 468, 471, 120-B of IPC

Criminal Case No. before trial Court	
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1.	Names of the complainant/ victims(s)/aggrieved persons(s)	
2.	Dates on which the statement(s) of the complainant/ victims(s)/ aggrieved persons(s) were recorded	
3.	Has the identity of the complainant/ victims(s)/ aggrieved persons(s) been verified?	Yes/No
4.	Whether all the victims/ all the aggrieved persons have compromised the matter?	Yes/No
5.	Is there pressure, threat, or coercion upon the victim(s)/aggrieved person(s)/complainant?	Yes/No
6.	Names of the accused person(s)	
7.	Dates on which the statement(s) of the accused persons(s) recorded	
8.	Whether all the accused have compromised the matter? If no, then the names of the accused who have compromised.	Yes/No
9.	Whether proclamation proceedings are pending against any accused?	Yes/No
10.	Sections of statutes invoked in the	



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	matter and convicted from the offences	
11	Whether the court is satisfied with the genuineness of the compromise?	Yes/No

There would be no need for a certified copy of this order, and any Advocate for the Petitioner/State can download this order and other particulars as may be required, from the official web page of this Court, and attest it to be a true copy. The concerned court can also verify its authenticity and may download and use the downloaded copy for immediate use, if required.

List on 16.12.2024.

3. Pursuant to the aforesaid order, report dated 12.12.2024 from ld. Addl. CJM, Moga has been received, which is taken on record. As per the report, the Trial Court has recorded as follows:-

Name of the reporting Court	Ms. Pushpa Rani, Addl. Chief Judicial Magistrate, Moga.

FIR No.	Dated	Police Station	Sections
50	14.06.2016	Sadar Moga, District Moga	420, 465, 467, 468, 471, 120-B of IPC

Criminal Case No. before trial Court	No case is pending before this court.
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1.	Names of the complainant/ victims(s)/aggrieved persons(s)	Sarabjeet Kaur, Jaskaran Singh and Tarsem Kaur
2.	Dates on which the statement(s) of the complainant/ victims(s)/ aggrieved persons(s) were recorded	02.12.2024
3.	Has the identity of the complainant/ victims(s)/ aggrieved persons(s) been verified?	Yes
4.	Whether all the victims/ all the aggrieved persons have compromised the matter?	Above said victims/aggrieved persons have compromised the matter
5.	Is there pressure, threat, or coercion upon the victim(s)/aggrieved person(s)/complainant?	No
6.	Names of the accused person(s)	Pargat Singh Jagjit Singh alias Gora, Surjeet Singh and Jasvir Kaur
7.	Dates on which the statement(s) of the accused persons(s) recorded	02.12.2024



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8.	Whether all the accused have compromised the matter? If no, then the names of the accused who have compromised.	Above said appearing accused have compromised the matter.
9.	Whether proclamation proceedings are pending against any accused?	No
10.	Sections of statutes invoked in the matter and convicted from the offences	420, 465, 467, 468, 471, 120-B of IPC
11	Whether the court is satisfied with the genuineness of the compromise?	Yes

4. Learned counsel for respondents No.2 to 4 admits the fact of parties having compromised and states that he has no objection in case the FIR and the impugned order as well as all proceedings subsequent thereto against the petitioners are quashed.

5. Similarly, learned State counsel has stated no objection in case the FIR and the impugned order are quashed based upon the compromise.

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

7. 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*



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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.

8. 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

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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).**”*

8.1. 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 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,

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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 nay 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.

9. 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.*

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- (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.*

10. Consequently, the petition is allowed; FIR No.50 dated 14.06.2016 under Sections 420, 465, 467, 468, 471 and 120-B of IPC, registered at P.S. Sadar Moga, District Moga as well as judgment of conviction and order of sentence dated 02.01.2024 (Annexure P-2) passed by ld. Addl. CJM, District Moga and all consequential proceedings arising therefrom on the basis of compromise (Annexure P-3), are hereby, quashed qua the petitioners.

07.01.2025

Jasmine Kaur

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No