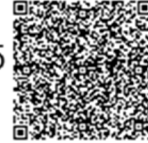


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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

2025:PHHC:136135



CRM-M-65024-2024 (O&M)

Reserved on: 09.09.2025.

Date of decision: 19.09.2025.

SANDEEP GUPTA

...Petitioner(s)

VERSUS

STATE OF PUNJAB AND ANOTHER

...Respondent(s)

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Saurav Bhatia, Advocate,
for the petitioner.

Mr. I.P.S. Sabharwal, DAG, Punjab.

Mr. Kuljinder Singh Billinig, Advocate,
for respondent No.2.

VINOD S. BHARDWAJ, J.

Seeking quashing of FIR bearing No.252 dated 17.11.2023 under Section(s) 436 and 427 of the Indian Penal Code, 1860 and Section 5 of the Explosive Substances Act, 1908, registered at Police Station Kharar, District S.A.S. Nagar (Mohali) along with all other consequential proceedings arising therefrom, on the basis of compromise dated 14.12.2024 entered between the parties, the instant petition has been filed.

2 As per the FIR lodged on the statement of respondent No.2—complainant, Harnek Singh, it was alleged that he owned another house situated opposite his existing residence. The petitioner is stated to have approached the complainant seeking to take the said house on rent for residing therein with his family and for storing certain belongings. However, instead of accommodating his family in the premises, the petitioner allegedly stored drums containing “binar,” which caught fire on 17.11.2023 between 1:00 p.m. and 2:00 p.m., thereby causing damage to the complainant’s property and building. Subsequently, the parties entered into a compromise, duly signed and executed between them. Upon institution of the present petition, this Court directed the parties to get their statements recorded before the Illaqa Magistrate, and further called for a report from the said Magistrate with respect to the validity and genuineness of the compromise arrived at between the parties, vide order dated 20.01.2025.

3 A report bearing Memo No.682 dated 18.02.2025 was received from the Judicial Magistrate First Class, Kharar, S.A.S. Nagar wherein it was reported as under: -

“The undersigned has carefully gone through the statements got recorded by complainant Harnek Singh and Sandeep Gupta and it appears from the statements of the parties that the statements of the parties are bonafide and not result of any pressure or coercion etc. in any manner and the compromise effected between the parties is genuine and valid. All the accused, complainant and injured are party to the compromise.

Further from the statement of Investigating Officer ASI Davinder Singh, it appears that no other case is pending against either of the parties and the accused has not been declared as

proclaimed offender in the present FIR. From the statement of Investigating Officer. It is also appears that the accused is previously not convicted in any other case. Accordingly, the report is submitted.”

4 Learned counsel appearing on behalf of the petitioner contends that the matter has been amicably resolved between the parties and, therefore, the continuation of the proceedings is unlikely to serve any purpose. It is further submitted that the provisions of the Explosive Substances Act, 1908, are not attracted by the facts of the present case. The petitioner does not suffer from any criminal antecedents and the alleged offences are neither of a grave nature nor of such character so as to shock the conscience of society or which may be construed as offences against the public at large. In view of these circumstances, it is urged that the FIR in question, along with all consequential proceedings arising therefrom, may be quashed.

5 No objection has been raised by the learned State counsel.

6 Learned counsel appearing on behalf of respondent No.2 has reiterated the settlement arrived at between the parties and has no objection to the FIR along with all other consequential proceedings being quashed.

7 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition.

8 At the outset, it would be apposite to refer to the provisions under Sections 2 and 5 of the Explosive Substances Act, 1908. The same is extracted as under: -

2. Definitions.—In this Act,—

1[(a) the expression “explosive substance” shall be deemed to include any materials for making any explosive substance; also any apparatus, machine, implement or material used, or intended to be used, or adapted for causing, or aiding in causing, any explosion in or with any explosive substance; also any part of any such apparatus, machine or implement;

xxx xxx xxx

5. Punishment for making or possessing explosives under suspicious circumstances.—Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punished,—

(a) in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;

(b) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

9 It is evident from a perusal of the provisions that in order to attract the applicability of the Explosive Substances Act, 1908, the explosive material must be possessed or retained with an unlawful intent. The object of the Act is to penalise acts and conduct of a person who is in possession of explosive substances for unlawful object or any other unlawful purpose.

10 It has been apprised by the learned counsel for the parties and is not disputed even by the State counsel, that the petitioner is engaged in the business of paint applications and that the substance in question had been stored in the ordinary course of such business activity. The incident occurred within the premises of the complainant due to the inherently inflammable nature of the substance and it cannot be construed as an act of being in possession of the substance for any unlawful purpose. The State counsel does not dispute the same and submits that according to their investigation as well, the substance was not retained for any illegal activity and was genuinely required for paint application, consistent with the petitioner's business operations. Accordingly, the essential ingredients for constituting an offence under Section 5 of the Explosive Substances Act, 1908, are clearly not made out.

11 Once the respondent-State has itself conceded before this Court that the essential ingredients for the commission of an offence under Section 5 of the Explosive Substances Act, 1908, are not attracted, the remaining offences pertain only to Sections 427 and 436 of the Indian Penal Code, 1860. The same cannot be construed as offences that are gravely shocking to the conscience of society or as offences against the State. It is further noted that the petitioner has no criminal antecedents.

12 The Full Bench of this Court in the matter of "**Kulwinder Singh and others versus State of Punjab and another**" reported as **(Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052** has observed as under:

'(28) To conclude, it can safely be said that there can never be

any hard and fast category which can be prescribed to enable the Court to exercise its power under [Section 482](#) of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

*(29) In **Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and Ors.**, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:*

“The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

(30) 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 exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.

(31) No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

(32) The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "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 Cr.P.C. 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.

(33) The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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 Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

(34) The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters 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 Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play 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 endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

Kesarwani Vs. State of Uttar Pradesh & Another, reported as **2025 SCC OnLine SC 1947** has held that if the Court is satisfied that the defence relied upon by the accused is reasonable and of impeccable quality and is undisputed and continuation of the proceedings would amount to an abuse of the process of law and would fail to serve the ends of justice, the High Court may quash the proceedings. The Hon'ble Supreme Court has placed reliance on the past precedent judgment in the matter of **Mohd. Wazid Vs. State of Uttar Pradesh and another**, reported as **2023 SCC OnLine SC 951** and noticed its concern about the wastage of judicial time that would result in conviction and held that such cases would not only harm the accused but also overburden the Courts since such trials are waste of precious judicial time. The relevant extract of the judgment is as under:

20. The following steps should ordinarily determine the veracity of a prayer for quashing, raised by an accused by invoking the power vested in the High Court under Section 482 of the Cr.P.C.:—

- (i) Step one, whether the material relied upon by the accused is sound, reasonable, and indubitable, i.e., the materials is of sterling and impeccable quality?*
- (ii) Step two, whether the material relied upon by the accused, would rule out the assertions contained in the charges levelled against the accused, i.e., the material is sufficient to reject and overrule the factual assertions contained in the complaint, i.e., the material is such, as would persuade a reasonable person to dismiss and condemn the factual basis of the accusations as false.*
- (iii) Step three, whether the material relied upon by the accused, has not been refuted by the prosecution/complainant; and/or the material is such, that it cannot be justifiably refuted by the prosecution/complainant?*

(iv) Step four, whether proceeding with the trial would result in an abuse of process of the court, and would not serve the ends of justice?

If the answer to all the steps is in the affirmative, judicial conscience of the High Court should persuade it to quash such criminal - proceedings, in exercise of power vested in it under Section 482 of the Cr. P.C. Such exercise of power, besides doing justice to the accused, would save precious court time, which would otherwise be wasted in holding such a trial (as well as, proceedings arising therefrom) specially when, it is clear that the same would not conclude in the conviction of the accused. [(See: Rajiv Thapar v. Madan Lal Kapoor (Criminal Appeal No. 174 of 2013)]”

14 Further, the Hon’ble Supreme Court in the matter of '**Ramgopal and Another Vs State of Madhya Pradesh, 2021 SCC Online SC 834**', has held that the matters which can be categorized as personal in nature or in the matter in which the nature of injuries do not exhibit mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest, the Court can quash the FIR in view of the settlement arrived at amongst the parties. The observation of the Hon'ble Supreme Court is extracted as under:-

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences ‘compoundable’ within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C. 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. 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.”*

15 Having examined the case in the light of the judgments of the Hon’ble Supreme Court, I am of the opinion that the following circumstances emerge from the petition: -

- (i) The petitioner is a law-abiding citizen who is carrying on the business of paint application and related services to earn his livelihood and it was an explosion that took place in the raw material which was stored within the premises and required for his business purposes.
- (ii) The State does not dispute that the storage of the inflammatory material was not for any unlawful intent but was for legitimate business operations.
- (iii) The petitioner does not suffer from any criminal antecedents.
- (iv) The compromise in question has been executed voluntarily and the surviving dispute primarily is in relation to the damage caused to the property of the respondent No.2-

complainant and he has no objection to the quashing of the FIR along with all the consequential proceedings arising therefrom.

- (v) The FIR in question is of the recent origin and not much time of the investigating agency had been invested.
- (vi) Such precious time can be saved by avoiding unnecessary litigation which is likely to end in futility and would also save previous judicial time.
- (vii) As per the report received from the concerned Judicial Magistrate First Class, the settlement has been arrived at between the parties voluntarily and without any coercion and undue pressure and out of free will.
- (viii) The continuation of the proceedings is not likely to serve any larger interests and the complainant is not likely to support the case of the prosecution, the entire proceedings are thus likely to be non-productive waste of judicial time.

16 Resultantly, the FIR bearing No.252 dated 17.11.2023 under Section(s) 436 and 427 of the Indian Penal Code, 1860 and Section 5 of the Explosive Substances Act, 1908, registered at Police Station Kharar, District S.A.S. Nagar (Mohali) along with all other consequential proceedings arising therefrom, are hereby quashed qua the petitioner(s) in view of compromise dated 14.12.2024 (Annexure P-2) entered between the parties. However, the same would be subject to payment of costs of Rs.25,000/- to be deposited by the petitioner with the Punjab Chief Minister Relief Fund, Account

No.001934001000589, IFSC: TPSC0000019, Punjab State Cooperative Bank, within a period of one month from the date of receipt of a certified copy of this order.

17 Petition is allowed.

September 19, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned

Whether reportable

: Yes/No

: Yes/No