

(2022) 03 SHI CK 0047

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 722 Of 2021

Aashish Kumar And Others

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 21-03-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 279, 337

Citation : (2022) 03 SHI CK 0047

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Narender Kumar Reddy, Raju Ram Rahi, Tek Chand Sharma

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. The instant petition, under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'Cr.PC') has been filed by petitioners-Aashish and Chetan Katoch, on the basis of compromise (Annexure P-2) arrived at between them and respondent No.2-Mast Ram, for quashing of FIR No.0098 of 2019, dated 30.09.2019, registered in Police Station Gohar, District Mandi, H.P., under Sections 279 and 337 of the Indian Penal Code (in short 'IPC') and consequent proceedings arising thereto.

2. Petitioners-Aashish Kumar, Chetan Katoch and respondent No.2-Mast Ram-complainant were present in person in the Court on 05.01.2022, who were identified by their respective learned counsel. Their Statements, on oath, were also recorded in the Court.

3. In his statement, respondent No.2-Mast Ram has stated that FIR has been lodged by him as Motorcycles being driven by petitioners had hit his Jeep. He has further stated that petitioners are 21 and 22 years of age and they have admitted their mistake and keeping in view their future and remorse expressed

by them with undertaking not to repeat such incident in future, he has decided to give a chance for reformation and, therefore, he has endorsed the compromise and his signatures thereon. He has sought permission to withdraw the complaint for quashing FIR and proceedings arising thereto. He has further stated that he has signed the compromise and has deposed in this Court out of his free will, consent and without any external pressure, coercion or threat of any kind.

4. In their joint statement, petitioners-Aashish Kumar and Chetan Katoch have stated that they are students of BA-II year at Government College Lambathach and on the day of incident they were late to reach the house of Tutor, as they have to attend the tuition class for improving English. They have further stated that they have realized their mistake and have undertaken not to repeat such incident in future and further that they have expressed their remorse for the incident and have apologized for the same. They have endorsed their signatures on the compromise. They have further stated that they have signed the compromise and have deposed in this Court, out of their free will, consent and without any external pressure, coercion or threat of any kind.

5. It is contended on behalf of respondent No.1-State that petitioner-accused is not entitled to invoke inherent jurisdiction of this Court to exercise its power on the basis of compromise arrived at between the parties with respect to offences not compoundable under Section 320 Cr.P.C.

6. Three Judges Bench of the Apex Court in *Gian Singh Vs. State of Punjab and Ors.* reported in (2012) 10 SCC 303, explaining that High Court has inherent power under Section 482 of the Code of Criminal Procedure with no statutory limitation including Section 320 Cr.PC, has held that these powers are to be exercised to secure the ends of justice or to prevent abuse of process of any Court and these powers can be exercised to quash criminal proceedings or complaint or FIR in appropriate cases where offender and victim have settled their dispute and for that purpose no definite category of offence can be prescribed. However, it is also observed that Courts must have due regard to nature and gravity of the crime and criminal proceedings in heinous and serious offences or offence like murder, rape and dacoity etc. should not be quashed despite victim or victim family have settled the dispute with offender. Jurisdiction vested in High Court under Section 482 Cr.PC is held to be exercisable for quashing criminal proceedings in cases having overwhelming and predominately civil flavour particularly offences arising from commercial, financial, mercantile, civil partnership, or such like transactions, or even offences arising out of matrimony relating to dowry etc., family disputes or other such disputes where wrong is basically private or personal nature where parties mutually resolve their dispute amicably. It was also held that no category or cases for this purpose could be prescribed and each case has to be dealt with on its own merit but it is also clarified that this power does not extend to crimes against society.

7. The Apex Court in *Parbatbhai Aahir alias Parbhathbhai Bhimsinghbhai Karmur*

and others vs. State of Gujarat and another, (2017) 9 SCC 641, summarizing the broad principles regarding inherent powers of the High Court under Section 482 Cr.P.C. has recognized that these powers are not inhibited by provisions of Section 320 Cr.P.C.

8. The Apex Court in case Narinder Singh and others vs. State of Punjab and others reported in (2014)6 SCC 466 and also in State of Madhya Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688, has summed up and laid down principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercise its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with criminal proceedings.

9. No doubt Section 279 of IPC is not compoundable under Section 320 Cr.P.C., however, as explained by Hon'ble Supreme Court in Gian Singh's, Narinder Singh's, Parbatbhai Aahir's and Laxmi Narayan's cases supra, power of High Court under Section 482 Cr.PC is not inhibited by the provisions of Section 320 CrPC and FIR as well as criminal proceedings can be quashed by exercising inherent powers under Section 482 Cr.PC, if warranted in given facts and circumstances of the case for ends of justice or to prevent abuse of the process of any Court, even in those cases which are not compoundable where parties have settled the matter between themselves.

10. In Madan Mohan Abbot vs. State of Punjab, (2008) 4 SCC 582, the Hon'ble Supreme Court emphasized and advised that in the matter of compromise in criminal proceedings, keeping in view of nature of this case, to save the time of the Court for utilizing to decide more effective and meaningful litigation, a commonsense approach, based on ground realities and bereft of the technicalities of law, should be applied.

11. Now, the matter has been amicably settled between the private parties on the basis of compromise arrived at between them, as such, I am of the considered view that no fruitful purpose shall be served to continue the proceedings against petitioner-Nitish Sharma.

12. Offence in question, for material on record, does not fall in the category of offence termed to be prohibited, in terms of the pronouncements of Apex Court, to be compounded, exercising power under Section 482 of the Cr.P.C.

13. Keeping in view nature and gravity of offence and considering facts and circumstances of the case in entirety, I am of the opinion that present petition deserves to be allowed for ends of justice and the same is allowed accordingly and FIR No.0098 of 2019, dated 30.09.2019 registered in Police Station Gohar, Tehsil Chachiot, District Mandi, H.P., is quashed. Consequent to quashing of FIR, criminal proceedings consequent thereto, are also quashed.

14. Petition stands disposed of in above terms.

15. Petitioner is permitted to produce a copy of this judgment, downloaded from the web-page of the High Court of Himachal Pradesh, before the authorities concerned, and the said authorities shall not insist for production of a certified copy but if required, may verify it from Website of the High Court.