

(2022) 02 SHI CK 0024

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 76 Of 2022

Abhishek

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 11-02-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 279, 307, 337

Citation : (2022) 02 SHI CK 0024

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Rajesh Kumar Parmar, Hemant Vaid, Sanjeev Suri

Final Decision : Allowed

Judgement

Jyotsna Rewal Dua, J

1. The instant petition has been moved under Section 482 of the Code of Criminal Procedure for quashing of FIR No.209/2021, dated 29.12.2021

registered under Sections 279 and 337 of the Indian Penal Code at Police Station Bhawarna District Kangra, H.P.

2. I have heard learned counsel for the parties.

3. Facts are that :-

FIR in question was registered on the basis of a complaint lodged by Sh. Sahaj Ram (husband of respondent No.2) to the effect that the petitioner

while driving his motor cycle bearing Registration No. HP-36B-6033 in a rash and negligent manner collided with respondent No.2 on the road near

Mona Babu's vegetable shop, as a result of which respondent No.2 sustained injuries. As per the compromise dated 05.01.2022 (Annexure P-3),

parties have amicably settled all the issues arising out of the FIR in question. The compromise also records cordial relations of parties with each other

and that respondent No.2 is not interested to pursue the aforesaid FIR any further.

4. The parties i.e. petitioner (Abhishek), respondent No.2 (Meera alias Neelam) and the complainant (Sahaj Ram husband of respondent No.2) are

present in the Court and have been identified as such by their respective learned counsel. By way of separate statements of the complainant and

injured (respondent No.2) recorded today, all the parties have stood by the compromise. The parties have stated that compromise and settlement of

dispute (FIR No.209/2021) is out of their free will and without any pressure, fear or influence whatsoever.

Learned Additional Advocate General has fairly submitted that he has no objection in case the relief prayed for in the petition is granted in view of the

aforesaid compromise and in view of amicable settlement of the disputes between the parties.

5. The law laid down in respect of exercise of powers under Section 482 of the Code of Criminal Procedure for quashing or for refusing to quash the

FIR and resultant proceedings on the basis of compromise effected by the parties in (2012) 10 SCC 303 titled Gian Singh vs. State of Punjab; (2014) 6

SCC 466 titled Narinder Singh vs. State of Punjab; (2017) 9 SCC 641 titled as Parbatbhai Aahir vs. State of Gujarat, has been noticed again by

Honâ??ble Apex Court in (2019) 5 SCC 688 , titled as State of Madhya Pradesh vs. Laxmi Narayan with following observations:-

â?? 15 . Considering the law on the point and the other decisions of this Court on the point, referred to hereinabove, it is observed and held as under:

15.1 That the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section

320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial

transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves;

15.2. Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like

murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

15.3 Similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences

committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the

offender; 15.4 Offences under Section 307 IPC and the Arms Act etc. would fall in the category of heinous and serious offences and therefore are to

be treated as crime against the society and not against the individual alone, and therefore, the criminal proceedings for the offence under Section 307

IPC and/or the Arms Act etc. which have a serious impact on the society cannot be quashed in exercise of powers under Section 482 of the Code, on

the ground that the parties have resolved their entire dispute amongst themselves. However, the High Court would not rest its decision merely because

there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to

whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to

framing the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such

injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. However, such an exercise by the High Court would be

permissible only after the evidence is collected after investigation and the charge sheet is filed/charge is framed and/or during the trial. Such exercise

is not permissible when the matter is still under investigation. Therefore, the ultimate conclusion in paragraphs 29.6 and 29.7 of the decision of this

Court in the case of Narinder Singh (supra) should be read harmoniously and to be read as a whole and in the circumstances stated hereinabove;

15.5 While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which

are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the

offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was

absconding and why he was absconding, how he had managed with the complainant to enter into a compromise etc.â??

6. Applying the above guidelines to the instant case, I am of the considered view that the offences for which, the petitioner has been accused in FIR

No. 209/2021, cannot be stricto-sensu said to be the offences against the State or involving social impact. In view of the amicable settlement arrived at

between the parties, no fruitful purpose will be served in continuing the proceedings in question; the present case does not fall within the exceptions

carved out by the Honâ??ble Apex Court when amicable settlement arrived at between the parties cannot be acted upon for quashing the FIR and

the consequent proceedings; the possibility of conviction in such circumstances would be very very remote. The continuation of the proceedings will

be to the great detriment of the petitioner causing them unnecessary harassment and injustice. When the complainant does not want to hold the

accused person responsible, then quashing of such FIR would certainly be in the interest of justice.

Consequently, the present petition is allowed and FIR No. 209/2021, dated 29.12.2021, under Sections 279 and 337 of the Indian Penal Code

registered at Police Station Bhawarna, District Kangra, H.P. and consequential proceedings arising out of it are quashed. The petition stands disposed

of accordingly. Pending miscellaneous applications, if any, shall also stand disposed of.

Learned counsel for the petitioner is permitted to produce copy of order downloaded from the High Court website before the concerned authorities,

who shall not insist for certified copy of the same, however, it may verify the order from the High Court website or otherwise.