

(2021) 01 SHI CK 0249
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 289 Of 2020

Baldev Kumar

APPELLANT

Vs

State Of Himachal Pradesh & Another

RESPONDENT

Date of Decision : 05-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(1)r, 3(1)s
Indian Penal Code, 1860 — Section 506

Citation : (2021) 01 SHI CK 0249

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Vinod Thakur, Desh Raj Thakur, Sanjay Bhardwaj

Final Decision : Allowed

Judgement

Vivek Singh Thakur, J

1. The instant petition, under Section 482 of the Code of Criminal Procedure (herein after referred to as "Cr.PC"), has been filed by petitioner-

accused, on the basis of compromise arrived at between him and complainant-respondent No. 2 Vishal, for quashing FIR No. 156 of 2020, dated

3.8.2020, under Section 3(1) r, s of the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act and Section 506 IPC, registered at Police

Station Hamirpur, District Hamirpur, H.P. and criminal proceedings initiated in pursuance thereto.

2. Petitioner Baldev Kumar and respondent No. 2, Vishal Kumar are present in person and are duly identified by their respective counsels and their

statements, on oath, have been recorded separately.

3. Respondent No. 2 Vishal Kumar in his statement has deposed that he is complainant in present case and he and Baldev Kumar are resident of one and the same village and prior to the incident their relations with each other were cordial and after incident, by passage of time, their relations have been re-established and now they are in good terms and further that the incident had taken place on 20.6.2020 on account of verbal exchange regarding parking of scooty and now they have decided to bury previous bitterness and to live with peace and harmony being the same villagers and, therefore, they have entered into compromise and the matter has been settled and compromise has been reduced into writing and photocopy of compromise has also been placed on record and he has endorsed his signatures on the compromise and has stated that as per compromise, he has agreed to withdraw the complaint. Lastly he has requested for quashing of FIR and consequential criminal proceedings. He has further stated that he has entered into compromise and has deposed in the Court, out of his free will, consent and also without any external pressure, coercion or threat of any kind.

4. Petitioner in his statement has endorsed the statement made by complainant Vishal Kumar (respondent No. 2) to be true and correct and identified his signatures on the compromise and has stated further that he has entered and signed the compromise out of their free will and without any threat, coercion or pressure.

5. It is contended on behalf of respondent-State that petitioner/accused are 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 an offence not compoundable under Section 320 Cr.P.C.

6. It is apt to record herein that a three Judges Bench of the Apex Court in Gian Singh Vs. State of Punjab and Others 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.P.C., 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.P.C. 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 Parbathbhai 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 Ors. Vs. State of Punjab and Others* reported in (2014) 6 SCC 46 6 and also in *State of Madhya*

Pradesh Vs. Laxmi Narayan and Others (2019) 5 SCC 68 8 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 Sections 3(1) r, s of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act is not compoundable under Section 320 Cr.

P.C. However, as explained by Honâ??ble Supreme Court in *Gian Singhâ??s, Narinder Singhâ??s, Parbatbhai Aahirâ??s* and *Laxmi*

Narayanâ??s cases supra, power of High Court under Section 482 Cr.PC is not inhibited by the provisions of Section 320 Cr.P.C. and FIR as well as

criminal proceedings can be quashed by exercising inherent powers under

Section 482 Cr.PC, if it is 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 Honâ??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. Offences in question, for material on record, do not fall in the category of offences termed to be prohibited, in the pronouncements of Apex Court, to be compounded exercising power under Section 482 of the Cr.P.C.

12. Keeping in view the ratio of law laid down by the Honâ??ble Apex Court and considering facts and evidence of the case in its entirety, present

petition is allowed and matter is permitted to be compounded. Consequently, FIR No. 156 of 2020, dated 3.8.2020, registered at Police Hamirpur, H.P.

is quashed. Consequent to quashing of FIR No. 156 of 2020, criminal proceedings, if any, also stand quashed.

13. Petition stands disposed of in the aforesaid terms, so also pending applications, if any.

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