
(2021) 05 SHI CK 0119
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 219 Of 2020

Kuldeep Singh & Ors

APPELLANT

Vs

State Of Himachal Pradesh & Ors

RESPONDENT

Date of Decision : 17-05-2021

Acts Referred:

Indian Penal Code, 1860 — Section 147, 149, 307, 323, 506
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2021) 05 SHI CK 0119

Hon'ble Judges : Jyotsna Rewal Dua, J

Bench : Single Bench

Advocate : Rajesh Kumar Parmar, Anil Jaswal, Manoj Bagga, Dhananjay Sharma

Final Decision : Allowed

Judgement

Jyotsna Rewal Dua, J

1. The petitioners are accused in FIR No. 65/2015, dated 14.4.2015, registered at Police Station, Baddi, under Sections 147, 149, 323 and 506 of Indian

Penal Code. They seek quashing of this FIR lodged at the instance of respondents No. 2 and 3 alongwith all consequential proceedings.

2. The FIR relates to an incident that allegedly occurred on 14.4.2015 wherein petitioners allegedly tried to beat and intimidate the private respondents.

The challan in this case was presented on 20.1.2016.

3. Along with the petition, the petitioners have appended a compromise deed dated 19.6.2018 executed between them and respondents No. 2 and 3

recording therein that:

â??That both the parties to this deed are local resident and with the intervention of elders and respectable persons of the area, have compromised the

dispute amicably. The parties want to maintain cordial relations in future and do not want to proceed further in the above titled case. Both the parties have no grudge with each other.

That both the parties to this Deed have entered into compromise with each other, with their own free will and without any pressure from any side.

That the 1st party undertakes to make statement to testify this deed/compromise before the judicial court or the District Magistrate as the case may be.

Whereas the parties to this deed with their own free will, with and without any pressure from any side, have put their respective hands on this deed, on the date, place and year, mentioned above, in the presence of following witnesses.â??

The compromise deed dated 19.6.2018, extracted above, shows that parties have compromised the matter involved in the FIR with the intervention of

their elders in order to have cordial relations amongst themselves. The compromise deed also records that the matter has been amicably settled

between the parties out of their own free will and without any coercion and pressure. Though vide order dated 24.4.2021, parties were directed to

remain present for ascertaining the authenticity of the compromise, however, due to COVID-19 pandemic and the lock-down imposed on account of

COVID-19, learned counsel appearing for the parties have expressed inability of the parties to attend the hearing. Shri Dhananjay Sharma, learned

counsel appearing for respondents No. 2 and 3 as well as learned counsel appearing for the petitioners on instructions received from their respective

clients have reiterated that compromised deed dated 19.6.2018 (Annexure P-2) has been entered and executed by the parties out of their own free

will and further that parties stand by this compromise. Shri Dhananjay Sharma, learned counsel for respondents No. 2 and 3 has stated that he has

instructions from his clients that they have no objection in case the present petition is allowed on the basis of this compromise. Learned Additional

Advocate General also fairly stated that in view of the compromise arrived at between the parties, respondent-State has no objection for allowing the petition.

4. 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 laid down 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 Madhaya 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??

5. Applying the above guidelines to the instant case, I am of the considered view that the offences for which, the petitioners have been accused in FIR

No. 65/2015, 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 petitioners causing them unnecessary harassment and injustice. When the private respondents do not want to hold the

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

6. Consequently, the present petition is allowed and the FIR No. FIR No. 65/2015, dated 14.4.2015, registered at Police Station, Baddi, under Sections

147, 149, 323 and 506 of Indian Penal Code along with consequent proceedings, if any, is quashed. The petition stands disposed of accordingly.