
(2022) 02 P&H CK 0057

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 9462 Of 2020

Mahinder Kumar @ Tinki And Others

APPELLANT

Vs

State Of Punjab And Others

RESPONDENT

Date of Decision : 15-02-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 147, 149, 379B

Citation : (2022) 02 P&H CK 0057

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : GPS Ghuman, H.S. Sitta, Gaurav Goel

Final Decision : Allowed

Judgement

FIR No.,Dated,Police Station,Sections

65,23.07.2019,"Bassi Pathana, District Fatehgarh Sahib","379-B, 341, 323, 147 & 149 IPC

The provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;,,,

16 (ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement,,,

has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence.,,,

While compounding an offence, the power of the court is governed by the provisions of section 320 of the Code of Criminal Procedure, 1973. The",,,

power to quash under Section 482 is attracted even if the offence is non-compoundable.,,,

16 (iii) In forming an opinion whether a criminal proceeding or complaint should

be quashed in exercise of its jurisdiction under Section 482, the High",,,

Court must evaluate whether the ends of justice would justify the exercise of the inherent power;,,,

16 (iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to,,,

prevent an abuse of the process of any court;,,,

16 (v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled,,,

the dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;,,,

16 (vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due",,,,

regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity",,,,

cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in",,,,

nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public,,,

interest in punishing persons for serious offences;,,,

16 (vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute.",,,,

They stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;,,,

16 (viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially",,,,

civil flavour may in appropriate situations fall for quashing where parties have settled the dispute;,,,

16 (ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a",,,,

conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and,,,

16 (x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic,,,

well-being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified,,,

in declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act,,,

complained of upon the financial or economic system will weigh in the balance.,,,

9. In *Ramgopal v. The State of Madhya Pradesh*, Cr.A 1489 of 2012, decided on 29.09.2021, Honâ??ble Supreme Court holds,",,

[11]. True it is that offences which are â??non-compoundableâ?? cannot be compounded by a criminal court in purported exercise of its powers,,,

under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the",,,

exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider",,,

interpretation and include such offences in the docket of â??compoundableâ?? offences which have been consciously kept out as non-compoundable.,,,

Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent",,,

powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and",,,

for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.,,,

[12]. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim",,,

has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482",,,

Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the",,,

body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze",,,

the very object of the administration of criminal justice system.,,,

[13]. It appears to us those criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be",,,

annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the,,,

sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases",,,

where compromise is struck postconviction, the High Court ought to exercise

such discretion with rectitude, keeping in view the circumstances",,,

surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence",,,

besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C.",,,

would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A,,,

restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances",,,

of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such",,,

benefit ought to be extended, as cautiously observed by this Court in *Narinder Singh &Ors. vs. State of Punjab &Ors.* [(2014) 6 SCC 466, Â¶ 29], and",,,

Laxmi Narayan [(2019) 5 SCC 688, Â¶ 15].",,,

[14]. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of",,,

the society or involve matters concerning public policy, cannot be construed between two individuals or groups only, for such offences have the",,,

potential to impact the society at large. Effacing abominable offences through quashing process would not only send a wrong signal to the community,,,

but may also accord an undue benefit to unscrupulous habitual or professional offenders, who can secure a "settlement" through duress, threats",,,

social boycotts, bribes or other dubious means. It is well said that "let no guilty man escape, if it can be avoided.",,,

10. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice",,,

arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.",,,

11. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, 2018 (4) Crimes 324, Hon'ble Supreme Court holds "[47]. As far",,,

as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the",,,

reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their,,,

petition for quashing of the FIR/Chargesheet. Having regard to these peculiar

facts, writ petition has also been entertained. In any case, once we hold",,,
that FIR needs to be quashed, order of cognizance would automatically stands
vitiating.â??",,,

12. Considering the entire facts, compromise, and in the light of the above-
mentioned judicial precedents, I believe that continuing these proceedings",,,
will not suffice any fruitful purpose whatsoever. In the facts and circumstances
peculiar to this case, the Court invokes the inherent jurisdiction under",,,
section 482 CrPC and quashes the FIR and all subsequent proceedings qua the
petitioner(s). The bail bonds of the petitioner(s) are accordingly,,
discharged. All pending application(s), if any, stand closed.",,
Petition allowed in the terms mentioned above.,,,