
(2022) 12 P&H CK 0031

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 50837 Of 2022

Mandeep Sharma

APPELLANT

Vs

State Of Punjab And Another

RESPONDENT

Date of Decision : 07-12-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 120B, 148, 149, 323, 325, 341, 356, 379, 379B, 406, 420, 506
Negotiable Instruments Act, 1881 — Section 138

Citation : (2022) 12 P&H CK 0031

Hon'ble Judges : Jagmohan Bansal, J

Bench : Single Bench

Advocate : Rajinder, S.K. Sirsa, Amish Sharma, Prince Sharma

Final Decision : Allowed

Judgement

Jagmohan Bansal, J

The instant petition has been filed under Section 482 Cr.P.C. seeking quashing of FIR No.003 dated 06.01.2017 (Annexure P-1) under Sections 323, 341, 379, 356, 506, 148 & 149 IPC and 379-B added later on, registered at Police Station Chhajali, District Sangrur, and all other subsequent proceedings arising therefrom, on the basis of Compromise/Affidavit dated 27.09.2022 (Annexure P-2).

Learned counsel for the petitioner, inter alia, submits that petitioner was declared proclaimed offender in a complaint case, however, he has compromised the matter with the complainant and accordingly, order initiating proclamation proceedings stands recalled vide order dated 25.11.2022 passed by JMJC, Sunam.

In terms of order dated 03.11.2022, Additional District & Sessions Judge, Sangrur, has submitted his report dated 03.12.2022. The relevant extracts of the report as as below:-

"Thus, by considering of such things, it is clear that compromise so effected between Mandeep Sharma and complainant Narinder Pal Singh is a genuine and such parties entered into compromise voluntarily. Accused/petitioner Mandeep Sharma has been appearing in the present case and is on bail. Apart from that one State case bearing FIR No.144 dated 16.08.2013 under sections 406, 420 and 120-B of IPC is pending against Mandeep Sharma and at present, he is on bail in that case. It is added that Mandeep Sharma was also involved in a complaint case under section 138 of Negotiable Instrument Act, but at present he has been discharged in that case for the time being. It is added that accused Mandeep Sharma has been declared as "proclaimed offender" in three cases i.e. present case bearing FIR No.03 dated 06.01.2017 for offences under sections 341, 323, 325, 379-B, 506 and 201 read with section 34 of IPC PS Chhajli, Complaint case under section 138 of Negotiable Instrument Act and State case bearing FIR bearing No.144 dated 16.08.2013 under sections 406, 420, 120-B of IPC. But at present, he is on bail in the present case and in that State case bearing FIR No.144 dated 16.08.2013 under sections 406, 420 and 120-B of IPC. While he has been discharged in Complaint case under Section 138 of Negotiable Instrument Act."

Learned State counsel would submit that State has no objection if the present FIR and consequential proceedings are quashed.

Relying upon its earlier judgments in 'Gian Singh Vs. State of Punjab and others, (2012) 10 SCC 303' and 'The State of Madhya Pradesh Vs. Laxmi Narayan and others (2019) 5 SCC 688', a two Judge Bench of the Hon'ble Supreme Court in 'Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC online SC 834' while dealing with power of High Court under Section 482 of Cr.P.C. to quash non- compoundable offences on the basis of compromise between the disputing parties has held:

"11. True it is that offences which are 'non-compoundable' 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 'compoundable' 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 that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly 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 post-conviction, 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 extra-ordinary 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.*³ and *Laxmi Narayan (Supra)*.

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 betwixt 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."

From the perusal of the enclosed FIR, report of the Trial Court and compromise arrived between the parties, it transpires that contesting parties have amicably resolved their issue, thus, no useful purpose would be served by continuing the proceedings. The alleged offences are of pre-dominantly private in nature and no moral turpitude or interest of public at large is involved. There appears to be no chance of conviction, the continuance of the proceedings would just waste valuable judicial time and it is well-known fact that courts are already overburdened.

In view of above facts and circumstances, the present petition deserves to be

allowed and accordingly is allowed. FIR No.003 dated 06.01.2017 (Annexure P-1) under Sections 323, 341, 379, 356, 506, 148 & 149 IPC and 379-B added later on, registered at Police Station Chhajali, District Sangrur, and all other subsequent proceedings arising therefrom, are quashed qua the petitioners.