

(2021) 01 SHI CK 0131
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 6 Of 2021

Pankaj Kumar & Others

APPELLANT

Vs

State Of Himachal Pradesh

RESPONDENT

Date of Decision : 08-01-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 34, 323, 324, 451, 506

Citation : (2021) 01 SHI CK 0131

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Atul Jhingan, Pankaj Kumar, Gaurav @ Harpreet Singh, Som Nath, Ravinder Kumar, Kailash Deevi, Vicky @ Rajesh Kumar, Raju Ram Rahi

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

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

Pankaj Kumar, Gaurav @ Harpreet Singh, Som Nath, Ravinder Kumar, Kailash Devi and Vicky @ Rajesh Kumar, on the basis of compromise deed

(Annexure P-3) arrived at between them, for quashing of FIR No.0229 dated 02.10.2020, lodged by Pankaj Kumar (petitioner No.1) registered in

Police Station, Haroli, District Una, under Sections 324 and 323 read with Section 34 of the Indian Penal Code (in short "IPC") and FIR

No.0228 dated 02.10.2020, lodged by Ravinder Kumar (petitioner No.4), registered in Police Station, Haroli, District Una, H.P., under Sections 451,

323, 506 and 506 read with Section 34 of IPC and subsequent proceedings arising thereto.

2. Petitioners Pankaj Kumar, Gaurav @ Harpreet Singh, Som Nath, Ravinder Kumar, Kailash Devi and Vicky @ Rajesh Kumar , are present in

person in the Court today, who have been identified by their learned counsel. Statements of all the petitioners, on oath, have been recorded today in the Court.

3. In their respective statements petitioner No.1-Pankaj Kumar and petitioner No.4-Ravinder Kumar have stated that they are complainants in case

FIR No. 0229 of 2020 and FIR No.0228 respectively, and these FIRs are arising out of one and the same incident in which all the petitioners are

involved from both sides and that occurrence had taken place, for removal of a pole fixed on the road, however immediately after registration of FIRs

both the parties had talks with each other and had clarified misunderstanding causing quarrel amongst them. It is further stated that they have decided

to live in peace and harmony and maintain good terms with each other and have undertaken not to repeat such incident, and, therefore, both the parties

have decided to withdraw the respective complaints filed by them and factum of compromise was also informed to the police.

4. Petitioner No.1-Pankaj Kumar and petitioner No.4-Ravinder Kumar have also stated that as per compromise, both the FIRs are to be quashed after

permitting them to withdraw the same and consequential proceedings arising thereto, are also to be quashed and, therefore, they have prayed

accordingly. They have further stated that they have signed the compromise and have deposed in this Court, out of their free will, consent and without

any external pressure, coercion or threat of any kind.

5. In their statements petitioner No.2-Gaurav @ Harpereet, petitioner No.3-Som Nath, petitioner No.5-Kailash Devi and petitioner No.6-Vicky @

Rajesh Kumar have endorsed the statements made by complainant-petitioner No.1-Pankaj Kumar and complainant-petitioner No.4-Ravinder Kumar

to be true and correct and further stated that all of them have decided to live and peace and harmony and have undertaken not to repeat such incident.

They have further stated that they have entered into a compromise without any pressure and signed the same voluntarily and have also deposed in the

Court out of their free will, consent and without any external pressure, coercion or threat of any kind.

6. Learned Deputy Advocate General has placed on record instructions received

from Superintendent of Police, Una, District Una, H.P., wherein it has been communicated that after completion of investigation, Charge-sheets stand filed in the Court of learned Additional Chief Judicial Magistrate, Court No.1, Una and the matters are fixed for service on 08.04.2021 and 20.05.2021 respectively. However, it is also stated that police has no objection for passing any appropriate order in both FIRs in the interest of justice.

7. Three Judges Bench of the Apex Court in *Gian Singh Vs. State of Punjab and Ors.* reported in (2012) 10 SCC 30,3 explaining that High Court has inherent power under Section 482 of the Code of Criminal Procedure with no statutory limitation including Section 320 Cr.PC, 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.PC is held to be exercisable for quashing criminal proceedings in cases having overwhelming and predominatingly 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.

8. The Apex Court in *Parbatbhai Aahir alias Parbhathbhai Bhimsinghbhai Karmur and others vs. State of Gujarat and another*, (2017) 9 SCC 641 summarizing the board 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.

9. The Apex Court in case *Narinder Singh and others vs. State of Punjab and*

others reported in (2014)6 SCC 466 and also in State of Madhya

Pradesh vs. Laxmi Narayan and others (2019) 5 SCC 688 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.

10. No doubt Section 324 IPC is not compoundable under Section 320 Cr.P.C. However, as explained by Honâ??ble Supreme Court in Gian

Singhâ??s, Narinder Singhâ??s, Parbhatbhai Aahirâ??s case and Laxmi Narayanâ??s cases supra, power of High Court under Section 482

Cr.PC is not inhibited by the provisions of Section 320 CrPC and FIR as well as criminal proceedings can be quashed by exercising inherent powers

under Section 482 CrPC, if 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.

11. 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.

12. Now, the matter has been amicably settled between the private parties on the basis of compromise arrived at between them, as such, I am of the

considered view that no fruitful purpose shall be served to continue the proceedings against petitioners-Pankaj Kumar, Gaurav @ Harpreet Singh, Som

Nath, Ravinder Kumar, Kailash Devi and Vicky @ Rajesh Kumar.

13. Offences in question, for material on record, do not fall in the category of offence termed to be prohibited, in the pronouncements of Apex Court,

to be compounded exercising power under Section 482 of the Cr.P.C.

14. Keeping in view nature and gravity of offence and considering facts and circumstances of the case in entirety, I am of the opinion that present

petition deserves to be allowed for ends of justice and the same is allowed accordingly and FIR Nos.0229 and 0228 of 2020 dated 02.10.2020,

registered in Police Station, Haroli, District Una, H.P., are quashed. Consequent to quashing of FIRs, criminal proceedings, initiated against petitioners-accused persons in pursuance thereto, are also quashed.

Petition stands disposed of in above terms.

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