
(2021) 06 SHI CK 0097
In the High Court Of Himachal Pradesh
Case No : CR.MMO NO. 267, 268 Of 2021

Rakesh Kumar & Others

APPELLANT

Vs

State Of H.P.& Another

RESPONDENT

Date of Decision : 22-06-2021

Acts Referred:

Indian Penal Code, 1860 — Section 143, 147, 148, 149, 323, 341
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2021) 06 SHI CK 0097

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Vishal Verma, Rakesh Kumar Chaudhary, Raju Ram Rahi

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. These two petitions filed for quashing of two different FIRs are being decided by this common judgment as these cross FIRs are arising out of the

same incident between the same two groups.

2. Cr.MMO No. 267 of 2021 has been filed for quashing of FIR No. 167 of 2019, dated 23.7.2019, registered in Police Station West, District Shimla,

Himachal Pradesh, under Sections 341, 147, 148, 149 and 323 of Indian Penal Code and consequential proceedings i.e. Police Challan No. 466 of 2020

pending before learned Judicial Magistrate 1st Class, Court No.5, Shimla, HP.

3 Cr.MMO No. 268 of 2021 has been filed for quashing of FIR No. 166 of 2019, dated 23.7.2019, registered under Sections 323, 143, 147, 148 and

149 of Indian Penal Code, at Police Station West, Shimla, Himachal Pradesh and consequential proceedings i.e. Police Challan No. 369 of 2020,

pending before learned Judicial Magistrate 1st Class, Court No.8, Shimla Himachal Pradesh.

4. FIR No. 166 of 2019 has been lodged by Mr.Rakesh Kumar, who is an accused in FIR No. 167 of 2019. Similarly FIR No. 167 of 2019 has been

lodged by Mr. Pawan Sharma, who is an accused in FIR No. 166 of 2019. All accused being petitioners in both petitions including the complainant in

respective FIRs, are present in person. All the petitioners, in both petitions, have been identified by their respective counsel.

5 These petitions have been filed on the basis of compromise arrived at between the parties and their statements have also been recorded on oath and

placed in the respective files.

6 In both petitions, complainants have stated that at the time of incident, they were students and unfortunately, an incident had taken place on account

of misunderstanding, but, now, they have realized that this incident could have been avoided and further that sometime after the incident, they

developed harmonious and cordial relations with each other and realized that they should not have quarreled with each other. They have also stated

that since they have to choose their career and one of them has joined the Army, therefore, with the intervention of elders they have compromised the

matter for amicable settlement and compromise between them has also been reduced into writing and they have signed the same. They have also

endorsed their respective signatures thereon. It is further deposed by the complainants that they have no objection in quashing the FIRs and criminal

proceedings arising thereto and they have decided not to quarrel with each other or any other person in future for ideological reasons. They have

further stated that they have made the statements out of their free will, consent and also without any kind of threat, coercion or pressure etc.

7. The petitioners in both petitions, in their joint statements, have endorsed the statements of complainants in each FIR as true and correct as per

compromise and deposed that they have also signed the compromise deed placed on record along with petition(s) with their free will and consent and

without any pressure. They have also identified their respective signatures on said compromise.

8. It is contended on behalf of respondent-State that accused, who are complainants in cross FIRs, are not entitled to invoke inherent jurisdiction of

this Court to exercise its power keeping in view the nature of offence committed by them.

9. Three Judges Bench of the Apex Court in *Gian Singh Vs. State of Punjab and Ors.* 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.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.

10. 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.

11. 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.

12. No doubt Section 147 of IPC is non-compoundable, 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 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.

13. In present matters, there is a dispute between the parties on account of some differences and cross FIRs have been registered against each other,

but now as they have settled the dispute amicably and again developed cordial, peaceful and friendly relations with each other and living accordingly, I

find that it is a fit case to exercise power under Section 482 Cr.P.C. and further keeping in view nature of disputes, even otherwise if criminal

proceedings are allowed to continue, no fruitful purpose is going to be served.

14. 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.

15. Further, offences in question as alleged do not fall in the category of offences prohibited for compounding in terms of the pronouncements of the

Apex Court by exercising power under Section 482 of the CrPC. In view of statements of parties recorded on oath in this Court, prayer of petitioners

can be allowed.

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

petitions deserve to be allowed for ends of justice and the same are allowed accordingly and FIR Nos. 166 of 2019 dated 23.07.2019 and 167. of 2019

dated 23.07.2019 registered at Police Station, West, District Shimla, H.P. are quashed. Consequent to quashing of FIRs, criminal proceedings, initiated in pursuance to the aforesaid FIRs, vide Police Challan No. 369 of 2020 and 466 of 2020 pending in the trial Court(s), are also quashed.

17. Petitions stand disposed of in above terms, so also pending application(s), if any.

The petitioners are permitted to produce copy of order downloaded from the High Court website and the concerned authorities shall not insist for

certified copy of the order, however, they may verify the order from the High Court website or otherwise.

Dasti copy on usual terms.