

(2021) 08 SHI CK 0016
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 242 Of 2021

Sanjeev Garg & Others

APPELLANT

Vs

State Of H.P. & Another

RESPONDENT

Date of Decision : 03-08-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 245, 482

Citation : (2021) 08 SHI CK 0016

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : Subhash Chander, Nand Lal Thakur, Ram Lal Thakur, Rajat Chauhan, Dushyant Dadwal

Final Decision : Allowed

Judgement

Anoop Chitkara, J

1. The petitioners, who stand arraigned as accused in the FIR mentioned above, have come up before this Court under Section 482, Code of Criminal

Procedure, 1973, to quash the proceedings given the compromise between the estranged wife and her in-laws.

2. Ld. Counsel for the parties submitted that as per the terms of compromise deed, the parties have settled the dispute between them outside the Court

and the alleged amount of embezzlement stands paid. They seek quashing of the FIR mention above and closure of all consequential proceedings.

ANALYSIS:

3. The following aspects would be relevant to conclude this petition: -

a) On 2.8.2021, this Court had recorded the statement of Rajesh Banta, wherein he testified about compromise and prayed for quashing of FIR.

b) The parties have amicably settled the matter between them in terms of the compromise deed (Annexure P-II). The complainant does not dispute this compromise deed.

c) The rejection of compromise may also lead to ill will, and the purpose of criminal jurisprudence is reformatory in nature and to work for bringing peace in family and society.

d) Even if this case is put to trial, the parties are likely to maintain the stand they have taken in this compromise, which is expected to result in the accused's acquittal.

e) Accused are the first offenders.

STAGE OF QUASHING FIR:

4. In *Ashok Chaturvedi v Shitul H. Chanchani*, 1998(7) SCC 698, Honâ??ble Supreme Court holds that the determination of the question as regards

the propriety of the order of the Magistrate taking cognizance and issuing process need not necessarily wait till the stage of framing the charge. The

Court holds, â??â?|This argument, however, does not appeal to us inasmuch as merely because an accused has a right to plead at the time of framing

of charges that there is no sufficient material for such framing of charges as provided in Section 245 of the Criminal Procedure Code, he is debarred

from approaching the court even at an earliest (sic earlier) point of time when the Magistrate takes cognizance of the offence and summons the

accused to appear to contend that the very issuance of the order of taking cognizance is invalid on the ground that no offence can be said to have

been made out on the allegations made in the complaint petition. It has been held in a number of cases that power under Section 482 has to be

exercised sparingly and in the interest of justice. But allowing the criminal proceeding to continue even where the allegations in the complaint petition

do not make out any offence would be tantamount to an abuse of the process of court, and therefore, there cannot be any dispute that in such case

power under section 482 of the Code can be exercised.

5. In *Girish Sarwate v. State of A.P.*, 2005(1) R.C.R.(Criminal) 758, the Full Bench of Andhra Pradesh High Court observed that the High Court need

not wait for completion of investigation and taking cognizance by the Magistrate.

CONCLUSION:

6. Although, the withdrawal of FIR would be through District Magistrate as a routine procedure. However, the High Court's inherent jurisdiction under Section 482 of the CrPC, to intervene in such kind of matter, and it is not the requirement of law that the cancellation has to be approved only through the District Magistrate. Inherent Jurisdiction of the High Court under section 482 CrPC can always be exercised, depending upon the facts and circumstances. The parties are likely to live together for a lifetime, and intervention would create a cordial environment for peaceful relations between them.

7. This Court has inherent powers under Section 482 of the Code of Criminal Procedure to interfere in this kind of matter. Given the entirety of the case and judicial precedents, I am of the considered opinion that the continuation of these proceedings will not suffice any fruitful purpose whatsoever.

8. In the present case, the offenses are not compoundable under Section 320 CrPC. Be that as it may, this Court is inclined to invoke the inherent jurisdiction under section 482 CrPC to quash the FIR and all subsequent proceedings in the peculiar facts and circumstances.

9. In *Himachal Pradesh Cricket Association v State of Himachal Pradesh*, 2018 (4) Crimes 324, Honâ??ble Supreme Court holds â??[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 vitiated.â??

10. In *Shakuntala Sawhney v Kaushalya Sawhney*, (1979) 3 SCR 639, at p 642, Honâ??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. Given above, because of the compromise, this is a fit case where the inherent jurisdiction of the High Court under Section 482 of the Code of Criminal Procedure is invoked to quash the proceedings mentioned above. The FIR mentioned above is quashed, and all the consequential proceedings

are also quashed and set aside. The bail bonds are accordingly discharged. All pending application(s), if any, stand closed.

12. In the facts and circumstances peculiar to this case, the petition is allowed in the aforementioned terms.

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