

(2023) 07 SHI CK 0038
In the High Court Of Himachal Pradesh
Case No : CR.MMO No. 447 Of 2023

Sunil Dutt & Another	Vs	APPELLANT
Indiabulls Housing Finance Ltd. & Another		RESPONDENT

Date of Decision : 05-07-2023

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 120B, 406, 420, 467, 468, 471

Citation : (2023) 07 SHI CK 0038

Hon'ble Judges : Sushil Kukreja, J

Bench : Single Bench

Advocate : Ravinder Singh Jaswal, Jitender Kumar Sharma, Vijay Kumar Verma

Final Decision : Disposed Of

Judgement

Sushil Kukreja, J

1. The accused persons (petitioners herein), after compromising the matter with respondent No.1 (Indiabulls Housing Finance Limited), have come up before this Court under Section 482 Cr.P.C., by invoking inherent powers of this Court, seeking quashing of FIR No. 107 of 2011, dated 05.05.2011, under Sections 406, 420, 467, 468, 471 and 120B of Indian Penal Code, registered at Police Station West, Shimla, H.P..
2. The present FIR was lodged by one Shri Inderjeet Singh, the then authorized person of respondent No. 1-company (Indiabulls Housing Finance Limited).
3. Today, Shri Ashok Sehrawat, Chief Manager, Group Legal, M/s Indiabulls Housing Finance Limited, authorized person by respondent No. 1 as well as the petitioners-accused are present in person before this Court and the statement of Shri Ashok Sehrawat has been separately recorded and placed on the file.
4. In his statement, Shri Ashok Sehrawat, stated that he has been authorized by respondent No. 1-Company to give statement in the Court and to withdraw the

case with respect to FIR No. 107 of 2011, dated 05.05.2011, under Sections 406, 420, 467, 468, 471 and 120B IPC, registered at Police Station West, Shimla, H.P.. He has further stated that on the basis of the complaint of respondent No. 1-Company, the FIR in question was registered against the petitioners and the police had also filed charge-sheet against them before the Court of learned Judicial Magistrate First Class, Court No. 4, Shimla. During the pendency of the trial, the parties have agreed to settle and put an end to all the disputes/litigations amicably, vide Memorandum of Understanding, Annexure P-2, which is signed by authorized representative of the company, Ms. Suneela Sangwan, and he is conversant with her signatures, as he worked with her. He has also stated that in view of the compromise arrived at between the parties, respondent No. 1-Company has no objection in case the aforesaid FIR and the consequent proceedings arising out of the said FIR, pending before the Court of learned Judicial Magistrate First Class, Court No. 4, Shimla, H.P., are quashed and set-aside.

5. I have heard learned counsel for the petitioners, learned counsel for respondent No. 1 as well as learned Additional Advocate General for respondent No.2/State and also gone through the material available on record.

6. In *Gian Singh Vs. State of Punjab and others*, 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, the Hon'ble Apex Court 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 offences like murder, rape and dacoity etc. should not be quashed despite victim or victim's 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 predominately 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.

7. Further, 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.PC. has recognized that these powers are not inhibited by

provisions of Section 320 Cr.PC.

8. 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, the Hon'ble Supreme Court 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.

9. In *Madan Mohan Abbot vs. State of Punjab*, (2008) 4 SCC 582, the Hon'ble Supreme Court emphasized and advised that in the matter of compromise in criminal proceedings, keeping in view the nature of the case, to save the time of the Court for utilizing to decide more effective and meaningful litigation, a common sense approach, based on ground of realities and bereft of the technicalities of law, should be applied.

10. In the instant case, since the matter has been amicably settled between the parties, therefore, keeping in view the nature of the offence, I am of the considered view that no fruitful purpose will be served to continue the proceedings against petitioners/accused, as continuation of the proceedings will be an exercise in futility. The justice in the case demands that the dispute between the parties is put to an end and peace is restored in order to maintain harmonious relations/ atmosphere between them.

11. Hence, considering the facts and the circumstances of the case in entirety, I am of the opinion that the present petition deserves to be allowed for securing the ends of justice and, therefore, the same is allowed. Accordingly, FIR No. 107 of 2011, dated 05.05.2011, under Sections 406, 420, 467, 468, 471 and 120B IPC, registered against the petitioners/accused at Police Station West, Shimla, H.P, and the consequent proceedings arising out of the said FIR, pending before the Court of learned Judicial Magistrate First Class, Court No. 4, Shimla, H.P., are ordered to be quashed and set-aside.

12. Petition stands disposed of in above terms, so also the pending application(s), if any.