

(2022) 05 SHI CK 0071

In the High Court Of Himachal Pradesh

Case No : Criminal Miscellaneous Petition (Main) No. 235 Of 2022

Sunil Kumar

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 24-05-2022

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 320, 482
Indian Penal Code, 1860 — Section 279, 337, 338

Citation : (2022) 05 SHI CK 0071

Hon'ble Judges : Vivek Singh Thakur, J

Bench : Single Bench

Advocate : Seema K. Guleria, Hemant Vaid, Kusum

Final Decision : Disposed Of

Judgement

Vivek Singh Thakur, J

1. This petition has been preferred under Section 482 Cr.P.C. for quashing of FIR No. 171, dated 22.11.2017 registered under Sections 279, 337 and 338 of Indian Penal Code (hereinafter in short 'IPC') at Police Station Dhalli, District Shimla HP and for quashing of proceedings initiated in pursuant thereto pending in the concerned Court.

2 Respondent No. 3 namely Mohit Gupta as well as petitioner Sunil Kumar are present in Court today and they have been duly identified by their counsel. Their statements have been recorded on oath and placed on the file.

3 Respondent No.3/complainant in his statement has stated that accident had taken place when petitioner Sunil Kumar moved his vehicle to its right side in order to fill fuel in his pick-up in petrol pump situated on other side of road and he was coming behind the pick-up and when speed of pick-up became slow, he tried to take pass but as he could not understand that pick-up was turning towards other side of road to enter the petrol pump, as a result of which the accident had occurred. He has stated that at that time, he had concluded that it

was negligence of Sunil Kumar which caused the accident and later on, after giving thoughtful consideration to version of Sunil Kumar, he observed that accident did not occur due to rash or negligent driving, rather due to misunderstanding with respect to the movement of pick-up as when pick-up became slow, he thought that petitioner was permitting to take over. It has also been stated by him that therefore, he entered into compromise with petitioner and also seeks permission to withdraw the complaint for quashing he FIR and criminal proceedings arising thereto with his undertaking to be careful in future.

4. The injured Abhishek vide separate statement, placed on record, has endorsed the statement of respondent No.3/complainant as true and correct and stated that he has also compromised the matter with petitioner out of his free will, consent and also without any kind of threat, coercion or pressure etc.

5 Petitioner Sunil Kumar, endorsing the statement made by complainant as true and correct, has stated that on the day of accident, he was taking the pick-up to petrol pump situated on other side of road and for that purpose, he had taken the turn towards right side and suddenly, scooter being driven by Mohit Gupta was hit during that movement, which resulted into lodging the FIR. He has also undertaken to be careful in future and as complainant has agreed to compromise the case and to withdraw the complaint lodged on his behalf, he has prayed for quashing the FIR as well as criminal proceedings arising thereto.

6 Respondent No.3 Mohit Gupta and petitioner Sunil Kumar, in their respective statements, have stated that they have compromised the matter and deposed in the Court out of their free will, consent and also without any kind of threat, coercion or pressure etc.

7. Quashing of FIR in present petition has been prayed on the basis of compromise arrived at between the parties, photocopy whereof has been placed on record, which is duly signed by parties. Both the petitioner and the complainant have endorsed the compromise.

8 As per status report filed on behalf of respondent/State, quashing of FIR has been opposed on the ground that petitioner has been charge sheeted for commission of offence under Sections 279, 337 and 338 IPC and after completion of investigation, which has been carried out as per law without any bias or malice, chargesheet has been filed in the Court for judicial verdict and if present petition is allowed the whole exercise and investigation conducted by police will become futile and it will be the sheer abuse of the process of law.

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 Parbatbhai 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 279 IPC is not compoundable under Section 320 Cr.P.C. However, as explained by Hon'ble Supreme Court in *Gian Singh's*, *Narinder Singh's* *Parbatbhai Aahir's* and *Laxmi Narayan'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 *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 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.

14. Keeping in view the statements of the complainant as well as injured, who have appeared in person, and stated on oath that in fact, the accident did not take place due to rash or negligent driving but same has occurred due to misunderstanding with respect to movement of pick-up, as when speed of pick - up, driven by petitioner, became slow, complainant thought that petitioner was permitting him to take over and he had done it, which resulted into causing the accident, and on account of this reason, they have agreed to compromise the case and to withdraw the complaint, I find that it is a fit case to exercise power under Section 482 Cr.P.C. and further even otherwise, in view of statement of the complainant, if criminal proceedings are allowed to continue, no fruitful purpose is going to be served.

15. Further, offences in question 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 Cr.P.C.

16 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 No. 171 of 2107, dated 22.11.2017, registered against the petitioner/accused at P.S. Dhalli, District Shimla H.P. is quashed. Consequent to quashing of said FIR, criminal proceedings pending in the concerned Court are also quashed.

Petition stands disposed of in above terms, so also pending application, if any.

The parties are permitted to produce copy of order downloaded from the High Court website and the concerned authority shall not insist for certified copy of the order, however, they may verify the order from the High Court website or otherwise.