

(2021) 08 P&H CK 0004

In the Punjab And Haryana At Chandigarh

Case No : Criminal Miscellaneous Petition (M) No. 20213 Of 2021

Surender Sharma And Another

APPELLANT

Vs

State Of Haryana And Another

RESPONDENT

Date of Decision : 12-08-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 323, 325, 506
Code Of Criminal Procedure, 1973 — Section 320, 482

Citation : (2021) 08 P&H CK 0004

Hon'ble Judges : Avneesh Jhingan, J

Bench : Single Bench

Advocate : B.S. Tewatia, Harpreet Kaur, Ashok Kaushik

Final Decision : Allowed

Judgement

Avneesh Jhingan, J

The matter is taken up for hearing through video conference due to COVID-19 situation.

The petition is for quashing of FIR No. 456 dated 26.11.2020, under Sections 323, 325, 506 read with Section 34 IPC, 1860, registered at Police

Station Ballabgarh Sadar, District Faridabad. alongwith all consequential proceedings arising therefrom on the basis of compromise.

The FIR was registered at the behest of Raj Kumar. As per the allegations there was dispute with regard to payment of EMI of vehicle purchased by

complainant. In an attempt to resolve the issue, the incident occurred on 19.11.2020 where injuries were inflicted to the complainant.

With the interference of respectable persons of the society the matter was compromised on 28.4.2021.

On 2.7.2021, the parties were directed to get their statements recorded before

the trial Court.

In pursuance to the order of this Court, compliance report dated 27.7.2021 is received stating that compromise is genuine, voluntarily, without any coercion or undue influence.

The Supreme Court in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others v. State of Gujarat and another*, 2017 AIR (SC) 4843 has

expounded principles governing the exercise of powers under Section 482 of Cr.P.C. The relevant portion is reproduced as under:-

15. The broad principles which emerge from the precedents on the subject, may be summarised in the following propositions :

(i) Section 482 preserves the inherent powers of the High Court to prevent an abuse of the process of any court or to secure the ends of justice. The

provision does not confer new powers. It only recognises and preserves powers which inhere in the High Court;

(ii) The invocation of the jurisdiction of the High Court to quash a First Information Report or a criminal proceeding on the ground that a settlement

has been arrived at between the offender and the victim is not the same as the invocation of jurisdiction for the purpose of compounding an offence.

While compounding an offence, the power of the court is governed by the provisions of Section 320 of the Code of Criminal Procedure, 1973. The

power to quash under Section 482 is attracted even if the offence is noncompoundable.

(iii) In forming an opinion whether a criminal proceeding or complaint should be quashed in exercise of its jurisdiction under Section 482, the High

Court must evaluate whether the ends of justice would justify the exercise of the inherent power;

(iv) While the inherent power of the High Court has a wide ambit and plenitude it has to be exercised; (i) to secure the ends of justice or (ii) to prevent

an abuse of the process of any court;

(v) The decision as to whether a complaint or First Information Report should be quashed on the ground that the offender and victim have settled the

dispute, revolves ultimately on the facts and circumstances of each case and no exhaustive elaboration of principles can be formulated;

(vi) In the exercise of the power under Section 482 and while dealing with a plea that the dispute has been settled, the High Court must have due

regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity

cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. Such offences are, truly speaking, not private in

nature but have a serious impact upon society. The decision to continue with the trial in such cases is founded on the overriding element of public

interest in punishing persons for serious offences;

(vii) As distinguished from serious offences, there may be criminal cases which have an overwhelming or predominant element of a civil dispute. They

stand on a distinct footing in so far as the exercise of the inherent power to quash is concerned;

(viii) Criminal cases involving offences which arise from commercial, financial, mercantile, partnership or similar transactions with an essentially civil

flavour may in appropriate situations fall for quashing where parties have settled the dispute;

(ix) In such a case, the High Court may quash the criminal proceeding if in view of the compromise between the disputants, the possibility of a

conviction is remote and the continuation of a criminal proceeding would cause oppression and prejudice; and

(x) There is yet an exception to the principle set out in propositions (viii) and (ix) above. Economic offences involving the financial and economic well-

being of the state have implications which lie beyond the domain of a mere dispute between private disputants. The High Court would be justified in

declining to quash where the offender is involved in an activity akin to a financial or economic fraud or misdemeanour. The consequences of the act

complained of upon the financial or economic system will weigh in the balance

The parties reside in the same locality. The root cause of the dispute was money transaction i.e. payment of monthly installment. In a heat of

movement things went ugly. The parties have bridged their gap and decided to live peacefully rather than litigating.

To meet the ends of justice and considering that no useful purpose would be served to continue with the trial, the above mentioned FIR and all

subsequent proceedings arising therefrom are quashed.

The petition is allowed.