

Before Vikas Bahl, J.

SATPAL SINGH AND OTHERS —*Petitioners*

versus

STATE OF PUNJAB AND ANOTHER—*Respondents*

CRM-M No.17790 of 2019

September 8, 2021

Power of Attorney Act, 1882 – S.2 – Code of Criminal Procedure, 1973 – S.482 - Quashing of FIR on the basis of Compromise through Power of Attorney holder of Complainant – FIR registered U/s 420, 465, 468, 120-B of IPC – Dispute amicably settled between parties – Quashing of FIR sought on the basis of Compromise – Complainant appeared through Power of Attorney – Allowed in interest of Justice and to prevent abuse of process of Law – FIR Quashed.

Held that, in exercise of inherent powers under Section 482 Cr.P.C., criminal proceedings are not to be quashed where the offence is heinous in nature. Proceedings can only be quashed where the issue is overwhelmingly and predominantly of civil profile arising out of commercial, financial, mercantile and civil or matrimonial nature. In a way dispute may involve wrong which is basically private or personal in nature and the parties have redressed the same by entering into compromise. In *Gian Singh vs. State of Punjab and another* 2012(4) RCR (Crl.) 543, the Hon'ble Supreme Court considered necessary imports of all previous precedents and observed in the following manner:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would

depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.

(Para 18)

A.S. Sekhon, Advocate, *for the petitioners.*

Jaspreet Kaur, AAG, Punjab.

Vikas Sonak, Advocate , for respondent No.2/complainant.

(Through Video Conferencing)

VIKAS BAHL, J. (ORAL)

CRM-25876-2021

(1) This is an application for early hearing of the main case which is stated to be listed on 12.10.2021.

(2) It has been stated that the matter has been compromised and the report dated 30.07.2019 has also been submitted by the Judicial Magistrate, Ist Class, Faridkot with respect to the said compromise.

(3) Learned counsel for the State and respondent No.2/complainant, have stated that they have also no objection in case the hearing of the main case is postponed to today and is taken up today itself for final disposal.

(4) In view of the abovesaid facts and circumstances, the present application is allowed and the hearing of the main case is postponed from 12.10.2021 to today and the same is taken up today itself for final disposal.

Main case

(5) Prayer in the present petition filed under Section 482 of Cr.P.C. is for quashing of FIR No.86 dated 22.05.2009 registered under Sections 420/467/468/120-B of the Indian Penal Code, 1860 at Police Station City Kotkapura, District Faridkot (Annexure P-1) and subsequent proceedings arising thereof on the basis of compromise by way of affidavit of complainant/respondent No.2 dated 09.04.2019 (Annexure P-2).

(6) On 22.04.2019, when this matter came up for hearing before the Coordinate Bench of this Court, the following order was passed:-

“Prayer made herein is for quashing of FIR No.86 dated 22.5.2009 registered at Police Station City Kotkapura, District Faridkot under Sections 420, 467, 468 and 120-B of Indian Penal Code, 1860 on the basis of a compromise effected between the parties.

Notice of motion for 5.8.2019.

At this stage, Mr. Vikas Sonak, Advocate has put in appearance on behalf of respondent No.2 and has filed Vakalatnama, which is taken on record.

The parties are directed to appear before the Illaqa Magistrate/trial Court on 16.7.2019 for recording their statements qua compromise.

The Illaqa Magistrate/trial Court is directed to submit its report on or before the next date of hearing as regards authenticity and genuineness of compromise after recording statements of all the affected parties.

The Illaqa Magistrate/trial Court shall also furnish *the following information:-*

1. Whether there is any other accused other than the petitioners, arrayed in this petition?
2. Whether there is any other complainant or affected/aggrieved party other than the respondents, arrayed in the petition?"

(7) In pursuance of the above order, the Judicial Magistrate, Ist Class, Faridkot has submitted its report dated 30.07.2019 and as per the said report, it has been stated that the compromise is genuine, voluntary and without any coercion or undue influence. It has also been stated that as per the Investigating Officer, there is no other complainant or effected/aggrieved party other than the respondents. The relevant portion of the said report is reproduced hereinbelow:-

“3. Hence, in these circumstances, from above statements, it is humbly submitted that:-

I) As per statements of petitioners No.1, 3, special power of attorney of petitioner No.2 and special power of attorney of respondent/complainant, the compromise is genuine, voluntary and without any coercion or undue influence.

II) As per statements of parties and investigating officer there is no other accused other than the petitioners, arrayed in this petition.

III) Further as statements of parties and investigating officer there is no other complainant or effected/aggrieved party other than the respondents, arrayed in the petition.

5. Hence, the requisite report is submitted for the present case titled as Satpal Singh and another Vs. State of Punjab and another, FIR No.86 dated 22.5.2009, under

Sections 420, 467, 468, 120-B IPC, P.S. City Kotkapura, for kind perusal of your goodself. Submitted please.”

(8) A perusal of the above report would also show that the complainant has appeared through Special Power of Attorney.

(9) Learned counsel for the petitioners has pointed out that in the present case, respondent No.2-Ranjit Singh, had in fact, made a statement on 10.03.2014 before the Judicial Magistrate, Ist Class, Faridkot, regarding the factum of compromise, which has been annexed as Annexure P-5 with the present petition. The relevant portion of the said statement dated 10.03.2014 is reproduced hereinbelow:-

“Statement of Ranjit Singh son of Mehar Singh son of Suchha Singh, resident of Panjgrain Kalan.

Stated that FIR No.86/22.05.2009 was registered upon my statement, but now I have effected compromise with the accused party. So, please the cancellation report be accepted. I have no objection.

ROAC

Sd/- Ranjit Singh

SD/-

(Vishesh) PCS
JMIC, FDK
10.03.2014”

(10) It has further been stated that the Judicial Magistrate, Ist Class, Faridkot in its order dated 10.03.2014, had recorded the fact that the cancellation report had been presented and that the statement of the complainant-Ranjit Singh had been recorded but however, had returned the cancellation report in view of the fact that certain Sections in the same were non-compoundable. The order dated 10.03.2014 passed by the Judicial Magistrate, Ist Class, Faridkot is reproduced hereinbelow:-

“Present:- Sh. G.S. Gill, APP for the State.

Cancellation report presented. It be checked and registered. Statement of complainant Ranjit Singh recorded, whereby he has stated that he has effected compromise with the accused persons and has no objection if the cancellation report is accepted. He has been identified by Karamjit Singh HC No.502. Perusal of the file shows that the instant FIR was registered under Sections 420, 467, 468, 120-B of IPC out of which offence under Section 420 IPC only is compoundable and offence under Sections 467 and 468 IPC are non-compoundable. Therefore, any cancellation report

on the basis of compromise in non-compoundable offence cannot be accepted. Consequently, the cancellation report is returned to the quarter concerned. Police papers alongwith copy of order be returned and judicial papers be consigned to the record room.

Sd/-

(Vishesh)JMIC,

Fdk. 10.3.2014”

(11) Learned counsel for the petitioners has further referred to the Special Power of Attorney dated 07.02.2019 (Annexure P-3) which has been executed by the said respondent No.2-Ranjit Singh in favour of Paramjeet Singh in which it has been specifically reiterated that the compromise has been effected and that Paramjeet Singh is authorized to give statement with respect to the compromise before the Lower Court or before the High Court. It is further submitted that the dispute in the present case is a personal dispute between the petitioners and respondent No.2.

(12) Learned counsel for the petitioners has relied upon a judgment dated 23.02.2018 passed by the Coordinate Bench of this Court in CRM-M- 13314-2017 titled *Gurjant Singh versus State of Punjab and another*.

(13) Learned counsel for respondent No.2/complainant has also submitted that the matter has been compromised and he has no objection in case the FIR and the subsequent proceedings arising therefrom are quashed and in fact, he would rather pray before this Court that FIR and the subsequent proceedings arising therefrom which have been pending for several years may kindly be quashed in view of the compromise, qua the petitioners.

(14) Learned counsel for the State has also no objection in case FIR and the subsequent proceedings arising therefrom are quashed on the basis of compromise qua the petitioners, more so when the report has been submitted by the Judicial Magistrate, Ist Class, Faridkot to the effect that the compromise is genuine and bona fide.

(15) This Court has heard the learned counsel for the parties.

(16) A perusal of the record as well as report would show that the compromise is genuine, bona fide and in the best interest of the parties and any further proceedings would be abuse of the process of the Court.

(17) With respect to the fact that respondent No.2/complainant

has appeared through Special Power of Attorney, it is observed that the said respondent No.2 had appeared in the Court of JMIC, Faridkot on 10.03.2014 and had made a specific statement (Annexure P-5) that the compromise has been effected between the parties. Even the order dated 10.03.2014 (Annexure P-6) would show that JMIC, Faridkot has recognized the fact that the said Ranjit Singh had made a statement which has been reproduced hereinabove. Even perusal of the Special Power of Attorney (Annexure P-3) clearly show that the factum with respect to compromise has been reiterated by Ranjit Singh and Paramjeet Singh has been given a liberty to make a statement on his behalf for effecting the compromise. The provisions of the Power of Attorney Act, 1882, more so Section 2 envisages that a person can execute an instrument in favour of another person.

(18) In *Gurjant Singh's case (Supra)*, the Coordinate Bench of this Court was pleased to quash the FIR on the basis of compromise where also the complainant had been impleaded through Power of Attorney. Relevant portion of the said judgment is reproduced hereinbelow:-

“[4]. Learned counsel for the petitioner submitted that in case of co-accused Sukhwinder Singh @ Sukha, CRM-M No.9398 of 2012 was filed for quashing of FIR on the basis of compromise. The said FIR was quashed on the basis of compromise qua Sukhwinder Singh @ Sukha, in which complainant was allowed to appear through his attorney i.e. his father for making statement before the trial Court.

[5]. In the present case also, complainant has been impleaded through power of attorney. Vide order dated 24.04.2017. both the parties were directed to appear before the Illaqa Magistrate/concerned Court in the context of making statements with regard to genuineness of the compromise in question. Both the parties have appeared before the trial Court on 04.05.2017. Father of the complainant namely Kuldeep Singh has appeared as special power of attorney of his son Jagdeep Singh. Since quashing has already been ordered qua Sukhwinder Singh @ Sukha on the basis of statement made by special power of attorney of the complainant, I deem it appropriate to consider the statement made by Kuldeep Singh to be sufficient for the purposes of quashing of FIR on the basis of compromise in this case as well.

[6]. Learned counsel for the petitioner relied upon Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another, 2012 (4) R.C.R. (Criminal) 589 and contended that the criminal proceedings in an FIR can be quashed at the instance of one of the accused on the basis of compromise. [7]. Learned counsel for the petitioner further relied upon Parambir Singh Gill Vs. Malkiat Kaur, 2010 (1) R.C.R. (Criminal) 256 and the decision rendered by this Court in CRMM No. 18632 of 2014 titled Ashok Kumar Garg and another Vs. State of Punjab and others, decided on 07.08.2015, on the aforesaid proposition.

[8]. In view of the aforesaid, I proceeded to decide this case on behalf of the petitioner.

[9]. The extent and sweep of inherent powers of the High Court under Section 482 Cr.P.C., for quashing criminal prosecution on merits as well as on the basis of compromise between the accused and the victim remained question of interpretation since long. The Hon'ble Apex Court after due consideration of judgments in Madhu Limaye vs. State of Maharashtra, AIR 1978 Supreme Court 47, Bhajan Lal vs. State of Haryana and others, AIR 1992 Supreme Court 604 and State of Karnataka vs. L. Muniswamy and others, AIR 1977 Supreme Court 1489, has summed up the controversy in State through Special Cell, New Delhi vs. Navjot Sandhu @ Afshan Guru and others, 2003(2) RCR (Cr.) 860 (SC). The legal position summed up in the said judgment is in the following manner:-

“Thus, the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of

power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bound of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise.

Section 482 of the Criminal Procedure Code starts with the words "Nothing in this Code". Thus the inherent jurisdiction of the High Court under Section 482 of the Criminal Procedure Code can be exercised even when there is a bar under Section 397 or some other provisions of the Criminal Procedure Code. However, as is set out in Satya Narayan Sharma's case (*supra*) this power cannot be exercised if there is a statutory bar in some other enactment. If the order assailed is purely of an interlocutory character, which could be corrected in exercise of revisional powers or appellate powers the High Court must refuse to exercise its inherent power. The inherent power is to be used only in cases where there is an abuse of the process of the Court or where interference is absolutely necessary for securing the ends of justice. The inherent power must be exercised very sparingly as cases which require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction. Most of the cases set out herein above fall in this category. It must be remembered that the inherent power is not to be resorted to if there is a specific provision in the Code or any other enactment for redress of the grievance of the aggrieved party. This power should not be exercised against an express bar of law engrafted in any other provision of the Criminal Procedure Code. This power cannot be exercised as against an express bar in some other

enactment.”

[10]. Full Bench of this Court in *Kulwinder Singh and others vs. State of Punjab and another*, 2007(3) RCR (Cr.) 1052 considered the scope of powers under Section 482 Cr.P.C., to hold that High Court has powers to quash prosecution in order to achieve ends of justice and to prevent abuse of process of law. These powers are not limited to matrimonial dispute alone, rather these powers are unlimited. However these powers are to be exercised very sparingly and with utmost care and caution. There is no statutory bar which can affect the inherent powers of High Court under Section 482 Cr.P.C. The powers under Section 482 Cr.P.C., is to be exercised *Ex-Debitia*, *justitia* to prevent abuse of process of Court.

[11]. In exercise of inherent powers under Section 482 Cr.P.C., criminal proceedings are not to be quashed where the offence is heinous in nature. Proceedings can only be quashed where the issue is overwhelmingly and predominantly of civil profile arising out of commercial, financial, mercantile and civil or matrimonial nature. In a way dispute may involve wrong which is basically private or personal in nature and the parties have redressed the same by entering into compromise. In *Gian Singh vs. State of Punjab and another* 2012(4) RCR (Cr.) 543, the Hon'ble Supreme Court considered necessary imports of all previous precedents and observed in the following manner:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be

prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

[12]. Taking into consideration totality of facts and circumstances, this Court is of the view that the case can be considered for quashing of FIR along with subsequent

proceedings arising therefrom on the basis of compromise. Resultantly, FIR No.61 dated 04.04.2009 registered under Sections 341/380/427/506/148/149 IPC at Police Station Samrala, District Ludhiana and all the subsequent proceedings arising therefrom are hereby quashed qua the petitioner.”

(19) Keeping in view the abovesaid facts and circumstances, this Court feels that the matter has been amicably settled and thus, keeping the criminal proceedings alive would be abuse of process of the Court and accordingly, the present petition is allowed and FIR No.86 dated 22.05.2009 registered under Sections 420/467/468/120-B of the Indian Penal Code, 1860 at Police Station City Kotkapura, District Faridkot (Annexure P-1) and subsequent proceedings arising therefrom are hereby quashed qua petitioners.

Dr. Sumati Jund