2025:PHHC:048767

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THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M No.60824 of 2024
Date of Decision: 08.04.2025

Bharat Bhushan and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

***

Present: Mr. Vipin Mahajan, Advocate
for the petitioners.

Mr. Karunesh Kaushal, AAG, Punjab.

Mr. Amandeep Singh, Advocate for
Mr. Vishal Munjal, Advocate
for respondents No.2 to 6.

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RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for quashing of cross version registered under Sections 325, 324, 323, 427, 506, 148, 149 of IPC, Police Station Dinanagar (Annexure P-2) in FIR No.48, dated 03.04.2006, under Sections 325, 324, 323, 452, 506, 148, 149 of IPC, 1860, registered at Police Station Dinanagar, District Gurdaspur, Punjab along with all consequential proceedings arising therefrom including the judgment of conviction dated 22.08.2023 (Annexure P-3) passed by learned JMIC, Gurdaspur on the basis of compromise between the petitioners and respondents No.2 to 6 to meet the ends of justice. Further

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prayer has been made for staying the further proceedings before the learned Appellate Court in Criminal Appeal No.CRA-232/2023 titled Bharat Bhushan @ others vs. State of Punjab against the judgment of conviction dated 22.08.2023 (Annexure P-3) during the pendency of the present petition.

2. Brief facts of the present case are that the cross case was registered on the statement of Dinesh Kumar. It was alleged that on 03.04.2006, at about 9/9:30 A.M., he along with Swamisada Nand along with his other followers going in separate cars for getting demarcation of land belonging to Shankarnand Hindi Putri Parthshala, Awankha. When we reached near the gate of S.S.D.A.V. School, Awankha, then Arvind Mehta along with other accused persons stopped our vehicle for parking them. On seeing, principles and Arvind Mehta started raising noise to catch hold of us. Thereafter, Ashok Shastri, Sanjay Shastri and Rakesh Kumar, who were standing there, started throwing brick bats at us. Sanjay Shastri threw brick bat at him which hit on his bag. Rajan mehta was holding datar in his hand and gave datar blow on my head. He raised raula ‘maar ditta maar ditta’. Then Shakti Sharma, who is my relative, had come to meet and took him o the Civil Hospital, where he was undergoing treatment. The accused also caused injuries to Yashpal, Rajinder Singh Saini, Kulbhushan MC, Parikshit Khajuria and they also threatened to kill us and also threw stones on our car bearing PB-09-0031 and damaged the same. Thereafter the case was registered and investigation commenced. On the conclusion of the trial, all the accused,

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i.e. petitioners No.1 to 13 were convicted and sentenced under Sections 148, 324/149, 323/149 for six months rigorous imprisonment by the trial Court vide its order dated 22.08.2023. The accused-petitioners challenged the same by filing an appeal before the learned Sessions Court at Gurdaspur and the same is pending adjudication. During pendency of the appeal, good sense prevailed and with the intervention of the respectables, the parties entered into a compromise and decided to bury the hatchet. The petitioners approached this Court by way of filing the present petition for quashing of the cross case and consequent proceedings arising therefrom on the basis of the compromise arrived at between the parties.

3. Learned counsel for the petitioners submits that the prosecution of the petitioners is nothing but an abuse of the process of the Court. He submits that though the petitioners have already been convicted by the Court of competent jurisdiction, however, during the pendency of the appeal before the Sessions Court, the parties have arrived at a compromise and respondent No.2 does not want to prosecute the petitioners any more. Thus, the cross case along with all consequential proceedings alongwith judgment and conviction order dated 22.08.2023 passed by the learned Judicial Magistrate Ist Class, Gurdaspur may kindly be quashed.

4. Learned counsel for respondents No.2 to 6 has affirmed the submissions made by counsel for the petitioners and thus, he has submitted that the inter-se dispute between the parties is resolved

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amicably. Hence, he has no objection, if the cross case alongwith consequential proceedings are quashed.

5. This Court vide order dated 13.12.2024 directed the parties to appear before the trial Court/Illaqa Magistrate for recording their statements, as contended before the Court, and the trial Court/Illaqa Magistrate was also directed to send its report.

6. In pursuance to the same, learned Judicial Magistrate Ist Class, Gurdaspur has sent the report dated 20.03.2025/04.04.2025 to this Court. With the report, he has annexed the photocopy of statement of complainant/respondent No.2, namely, Dinesh Kumar @ Dinesh Shastri and photocopies of statements of respondents No.3 to 6, namely, Yash Pal, Rajinder Singh Saini, Parikshit Khajuria, Madhu Bala recorded on 27.01.2025. He has also annexed the photocopies of statements of petitioners, namely, Bharat Bhushan, Lalit Kumar, Jyoti Gupta, Sita Ram, Ashok Kumar Shastri, Sanjay Kumar Shastri @ Sanju, Rakesh Kumar Shastri, Arvind Mehta, Rajan Mehta, Shanta Dogra @ Shanti Dogra, Madhur Bhashani, Kamlesh Sharma, Jyoti Thakur recorded on 27.01.2025. He has also annexed the photocopy of statement of ASI Rupinder Singh recorded on 04.04.2025. On the basis of the statements, learned Judicial Magistrate Ist Class, Gurdaspur has concluded in the report that the compromise arrived at between the parties is genuine, voluntarily and out of free will. It has further been mentioned that as per the statement of ASI Rupinder Singh no other person has been nominated as accused in the main case or its cross version. It has further been

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mentioned that none of the accused has been declared as proclaimed offender.

7. Status report dated 07.04.2025 by way of an affidavit of Seema, PPS, Additional Charge Deputy Superintendent of Police, Dinanagar, District Gurdaspur on behalf of respondent No.1 has been filed by the learned State counsel today in the Court and the same is taken on record. Copy thereof has been supplied to learned counsel for the petitioners.

8. I have heard learned counsel for the parties, perused the record and the report sent by the learned Judicial Magistrate Ist Class, Gurdaspur.

9. A bare perusal of statutory provision of the 528 of B.N.S.S. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse of the process of any Court or otherwise to secure the ends of justice. Section 359 B.N.S.S. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Bharatiya Nyaya Sanhita.

10. Hon'ble Supreme Court in '***Ramgopal and another vs. State of Madhya Pradesh***', **2021(4) RCR (Criminal) 322** has held as under:

> "13. *It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is*

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not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C., 1973 would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C., 1973 may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. v. State of Punjab & Ors., (2014) 6 SCC 466 and Laxmi Narayan (Supra).

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19. *We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C., 1973 or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C., 1973 Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of*

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> *quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."*

11. Keeping in view the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, the continuation of criminal prosecution would be a futile exercise. The Hon'ble Supreme Court in a number of cases including ***Narinder Singh and others Versus State of Punjab and another, 2014 (6) SCC 466;*** **B.S.Joshi and others** vs **State of Haryana and another (2003) 4 Supreme Court Cases 675** followed by this Court in Full Bench case of **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR 1052** have dealt with the proposition involved in the present case and settled the law.

12. Thereafter, Hon'ble Supreme Court in ***Gian Singh vs State of Punjab and another (2012) 10 Supreme Court Cases 303*** further dealt with the issue and the earlier law settled by the Supreme Court for quashing of the FIR in ***State of Haryana vs Bhajan Lal, 1992 Supp (1) SCC 335***. Para 61 of the judgment reads as under:-

> *"61. 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*

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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-dominatingly civil flavour stand on a 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, the High Court may quash criminal proceedings if in its view, because of the compromise between the offender and the victim, the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression

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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 the 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 the affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

13. Applying the law settled by Hon'ble Supreme Court in plethora of judgments and this High Court, it is apparent that when the parties have entered into a compromise, then continuation of the proceedings would be merely an abuse of process of the Court and by allowing and accepting the prayer of the petitioners by quashing the case would be securing the ends of justice, which is primarily the object of the legislature enacting under Section 528 of B.N.S.S.

14. As a result, this Court finds that the case in hand squarely falls within the ambit and parameters settled by judicial precedents and hence, cross version registered under Sections 325, 324, 323, 427, 506, 148, 149 of IPC, Police Station Dinanagar (Annexure P-2) in FIR No.48, dated 03.04.2006, under Sections 325, 324, 323, 452, 506, 148, 149 of IPC, 1860, registered at Police Station Dinanagar, District Gurdaspur, Punjab along with all consequential proceedings arising therefrom including the judgment of conviction dated 22.08.2023 (Annexure P-3) passed by

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learned JMIC, Gurdaspur are hereby quashed on the basis of compromise between the petitioners and respondents No.2 to 6.

15. The appeal pending before the learned Appellate Court would automatically stands infructuous.

16. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

17. Petition stands allowed.

08.04.2025 **(RAJESH BHARDWAJ)**
rittu **JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No

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