**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CRM-M No.11587 of 2022
Reserved on: 26.04.2022
Pronounced on: 14.07.2022**

Shivani Sharma @ Shivani Khanna and another .....Petitioners

Vs.

State of Punjab and another .....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. S.P. Soi, Advocate,
for the petitioners.

Mr. Harpreet S.Multani, AAG, Punjab.

None for respondent No.2.

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ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
196	12.10.2017	Urban Estate, District Patiala	420, 465, 468 and 471 IPC

The petitioners, arraigned as accused in the above captioned FIR, have come up before this Court under Section 482 Cr.P.C. for quashing of the FIR and all consequential proceedings based on the compromise with the aggrieved person.

2. During the pendency of the petition, the accused and the aggrieved person have compromised the matter, and copy of affidavit of complainant is annexed with this petition as Annexure P-2.

3. After that, the petitioner came up before this Court to quash the FIR, and in the quashing petition, impleading the aggrieved person as respondent.

4. On 02-04-2022, the aggrieved person Surinder Pal Singh (R-2) appeared before the

ANALYSIS & REASONING:

5. Despite the severe opposition of the State's counsel to this compromise, the following aspects would be relevant to conclude this petition: -

a) The accused and the private respondent have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court;

b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;

c) The aggrieved person has willingly consented to the nullification of criminal proceedings;

d) There is no objection from the private respondent in case present FIR and consequent proceedings are quashed;

e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;

f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;

g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, or professional offender;

h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, community, and society;

i) The exercise of the inherent power for quashing FIR and all consequential proceedings is justified to secure the ends of justice.

6. In the present case the offences under Sections 465, 468 and 471 of Indian Penal Code, 1860 are not compoundable under Section 320 Cr.P.C. However, in the facts and circumstances peculiar to this case, the prosecution qua the non-compoundable offences can be closed by quashing the FIR and consequent proceedings.

7. In C.B.I., New Delhi v. Duncans Agro Industries Ltd., Calcutta, 1996(5) SCC 591, Hon'ble Supreme Court holds,

> [26]. After giving our careful consideration to the facts and circumstances of the case and the submissions made by the

> the complaint by way of action at the threshold, it is, therefore, necessary to consider whether on the face of the allegations, a criminal offence is constituted or not.
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> [29]. In the facts of the case, it appears to us that there is enough justification for the High Court to hold that the case was basically a matter of civil dispute. The Banks had already filed suits for recovery of the dues of the Banks on account of credit facility and the said suits have been compromised on receiving the payments from the concerned Companies. Even if an offence of cheating is *prima facie* constituted, such offence is a compoundable offence and compromise decrees passed in the suits instituted by the Banks, for all intents and purposes, amount to compounding of the offence of cheating. It is also to be noted that long time has elapsed since the complaint was filed in 1987. It may also be indicated that although such FIRs were filed in 1987 and 1989, the Banks have not chosen to institute any case against the alleged erring officials despite allegations made against them in the FIRs. Considering that the investigations had not been completed till 1991 even though there was no impediment to complete the investigations and further investigations are still pending and also considering the fact that the claims of the Banks have been satisfied and the suits instituted by the Banks have been compromised on receiving payments, we do not think the said complaints should be pursued any further. In our view, proceeding further with the complaints will not be expedient. In the special facts of the case, it appears to us that the decision of the High Court in quashing the complaints does not warrant any interference under Article 136 of the Constitution. We, therefore, dismiss these appeals.

8. In Manoj Sharma v. State, 2008(4) R.C.R.(Criminal) 827: 2008(16) SCC 1, Hon'ble Supreme Court quashed the criminal proceedings holding as follows,

> [8]. In our view, the High Court's refusal to exercise its jurisdiction under Article 226 of the Constitution for quashing the criminal proceedings cannot be supported. The First Information Report, which had been lodged by the complainant indicates a dispute between the complainant and the accused which is of a private nature. It is no doubt true that the First Information Report was the basis of the investigation by the Police authorities, but the dispute between the parties remained one of a personal nature. Once the complainant decided not to pursue the matter further, the High Court could have taken a more pragmatic view of the matter. We do not suggest that while exercising its powers under Article 226 of the Constitution the High Court could not have refused to quash the First Information Report, but what we do say is that the matter could have been considered by the High Court with greater pragmatism in the facts of the case. As we have indicated hereinbefore, the exercise of power under Section 482 Criminal Procedure Code or Article 226 of

> compoundable under Sub-section (2) of Section 320Cr.P.C. with the leave of the Court. Of course, forgery has not been included as one of the compoundable offences, but it is in such cases that the principle enunciated in B.S. Joshi's case (supra) becomes relevant.
> [23]. In the instant case, the disputes between the Company and the Bank have been set at rest on the basis of the compromise arrived at by them whereunder the dues of the Bank have been cleared and the Bank does not appear to have any further claim against the Company. What, however, remains is the fact that certain documents were alleged to have been created by the appellant herein in order to avail of credit facilities beyond the limit to which the Company was entitled. The dispute involved herein has overtones of a civil dispute with certain criminal facets. The question which is required to be answered in this case is whether the power which independently lies with this Court to quash the criminal proceedings pursuant to the compromise arrived at, should at all be exercised?
> [24]. On an overall view of the facts as indicated hereinabove and keeping in mind the decision of this Court in B.S. Joshi's case (supra) and the compromise arrived at between the Company and the Bank as also clause 11 of the consent terms filed in the suit filed by the Bank, we are satisfied that this is a fit case where technicality should not be allowed to stand in the way in the quashing of the criminal proceedings, since, in our view, the continuance of the same after the compromise arrived at between the parties would be a futile exercise.

10. In Jayrajsinh Digvijaysingh Rana v. State of Gujarat, 2012 (12) SCC 401, Hon’ble Supreme Court holds,

> [6]. It is also relevant to point out that the averments in the FIR disclosed the offences punishable under Sections 467, 468, 471, 420 and 120- B of Indian Penal Code.
> [7]. The only question for consideration before this Court at this stage is that inasmuch as all those offences are not compoundable offences under Section 320 of the Code (except Section 420 of Indian Penal Code that too with the permission of the Court before which any prosecution for such offence is pending), whether it would be possible to quash the FIR by the High Court under Section 482 of the Code or by this Court exercising jurisdiction under Article 136 of the Constitution of India?
> [8]. The above question was recently considered by this Court in *Shiji @ Pappu&Ors. v. Radhika & Anr., 2011(6) Recent Apex Judgments (R.A.J.) 210 : 2012(1) R.C.R.(Criminal) 9 : (2011)10 SCC 705.* The question posed in that case was "Whether the criminal proceedings in question could be quashed in the facts and circumstances of the case having regard to the settlement that the parties had arrived at." After adverting to Section 482 of the Code and various decisions, this Court concluded as under :

> trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial court or in appeal on the one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Criminal Procedure Code on the other. While a court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Criminal Procedure Code are not for that purpose controlled by Section 320 Criminal Procedure Code.
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> 18. Having said so, we must hasten to add that the plenitude of the power under Section 482 Criminal Procedure Code by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law. The High Court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked."

[9]. On going through the factual details, earlier decision, various offences under Section 320 of the Code and invocation of Section 482 of the Code, we fully concur with the said conclusion. In the case on hand, irrespective of the earlier dispute between Respondent No. 2-the complainant and the appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present appellant (Accused No. 3) sworn an affidavit with *bona fide* intention securing the right, title and interest in favour of Respondent No. 2 herein-the Complainant. In such *bona fide* circumstances, the power under Section 482 may be exercised.

> compoundable under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.
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> [10]. In the light of the principles mentioned above, inasmuch as Respondent No. 2-the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice under Article 142 of the Constitution, we accept the terms of settlement insofar as the appellant herein (Accused No. 3) is concerned.
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> [11]. In view of the same, we quash and set aside the impugned FIR No. 45/2011 registered with Sanand Police Station, Ahmedabad for offences punishable under Sections 467, 468, 471, 420 and 120B of Indian Penal Code insofar as the appellant (Accused No. 3) is concerned. The appeal is allowed to the extent mentioned above.

11. In Central Bureau of Investigation v. Jagjit Singh, (2013) 10 SCC 686, Hon'ble Supreme Court holds,

> [14]. In the present case, the specific allegation made against the respondent-accused is that he obtained the loan on the basis of forged document with the aid of officers of the Bank. On investigation, having found the ingredients of cheating and dishonestly inducing delivery of property of the bank (Section 420 Indian Penal Code) and dishonestly using as genuine a forged document (Section 471 Indian Penal Code), charge sheet was submitted under Sections 420/471 Indian Penal Code against the accused persons.
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> [15]. The debt which was due to the Bank was recovered by the Bank pursuant to an order passed by Debts Recovery Tribunal. Therefore, it cannot be said that there is a compromise between the offender and the victim. The offences when committed in relation with Banking activities including offences under Sections 420/471 Indian Penal Code have harmful effect on the public and threaten the well being of the society. These offences fall under the category of offences involving moral turpitude committed by public servants while working in that capacity. *Prima facie,* one may state that the bank as the victim in such cases but, in fact, the society in general, including customers of the Bank is the sufferer. In the present case, there was neither an allegation regarding any abuse of process of any Court nor anything on record to suggest that the offenders were entitled to secure the order in the ends of justice.

> is pleaded that it conducts its business with necessary licence. The multi level marketing through direct selling of products is being adopted by the Company in the interest of the consumers by eliminating the middleman and rewarding the consumer by reducing the prices. The appellant-company has over sixteen thousand members/consumers in and around the city of Chennai alone. A complaint was made in the year 2003 by Respondent No. 7 against the appellant-company alleging non-compliance of issuance of numismatic gold coin on receipt of L 16,800/- from wife of Respondent No. 7 as per the promise made by the appellant-company. Some other customers also had complaints on the basis of which Respondent No. 4 registered a case under Section 420 of the Indian Penal Code read with Sections 4, 5 & 6 of the Prise Chits and Money Circulation (Banning) Act, 1978. The appellant-company filed a writ petition being W.P.No. 26784 of 2003 before the High Court of Judicature at Madras praying therein that the FIR registered against it be quashed. Since all the claimants including the complainant settled the dispute with the appellant-company and entered into an agreement, learned Single Judge of the High Court by its order dated 19th April, 2005 quashed the FIR, and disposed of the aforesaid writ petition. However, the State-respondents challenged the said order dated 19th April, 2005 passed by the learned Single Judge whereby the FIR No. 307 of 2003 was quashed, before the Division Bench of the High Court. The Division Bench allowed the writ appeal being W.A.No. 1178 of 2005 filed by the State-respondents and directed Respondent No. 4 to investigate the crime. Hence, this appeal.
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> [8]. In view of the principle laid down by this Court in the aforesaid cases, we are of the view in the disputes which are substantially matrimonial in nature, or the civil property disputes with criminal facets, if the parties have entered into settlement, and it has become clear that there are no chances of conviction, there is no illegality in quashing the proceedings under Section 482 Cr.P.C. read with Article 226 of the Constitution. However, the same would not apply where the nature of offence is very serious like rape, murder, robbery, dacoity, cases under Prevention of Corruption Act, cases under Narcotic Drugs and Psychotropic Substances Act and other similar kind of offences in which punishment of life imprisonment or death can be awarded. After considering the facts and circumstances of the present case, we are of the view that learned Single Judge did not commit any error of law in quashing the FIR after not only the complainant and the appellant settled their money dispute but also the other alleged sufferers entered into an agreement with the appellant, and as such, they too settled their claims.

13. In Parbatbhai Aahir v State of Gujarat, *(2017) 9 SCC 641*, a three Judges Bench of Hon'ble Supreme Court, laid down the broad principles for quashing of FIR, which are reproduced as follows: -

> [16]. The broad principles which emerge from the precedents on the

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 non-compoundable.

16 (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;

16 (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;

16 (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;

16 (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;

16 (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;

16 (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;

16 (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

16 (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

under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of 'compoundable' offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

[12]. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non-compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

[13]. It appears to us those 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 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 postconviction, 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. 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. 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. vs. State of Punjab &Ors. [(2014) 6 SCC 466, ¶ 29], and Laxmi Narayan [(2019) 5 SCC 688, ¶ 15]*.

[14]. In other words, grave or serious offences or offences which involve moral turpitude or have a harmful effect on the social and moral fabric of the society or involve matters concerning public

guilty man escape, if it can be avoided."

15. In Madan Mohan Abbot v. State of Punjab, (2008) 4 SCC 582, Hon'ble Supreme Court holds,

> [5]. It is on the basis of this compromise that the application was filed in the High Court for quashing of proceedings which has been dismissed by the impugned order. We notice from a reading of the FIR and the other documents on record that the dispute was purely a personal one between two contesting parties and that it arose out of extensive business dealings between them and that there was absolutely no public policy involved in the nature of the allegations made against the accused. We are, therefore, of the opinion that no useful purpose would be served in continuing with the proceedings in the light of the compromise and also in the light of the fact that the complainant has, on 11th January 2004, passed away and the possibility of a conviction being recorded has thus to be ruled out. We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilised in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and benefit of the technicalities of the law.

16. In Shakuntala Sawhney v Kaushalya Sawhney, *(1979) 3 SCR 639*, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

17. In the light of the judicial precedents referred to above, given the terms of compromise, placement of parties, and other factors peculiar to the case, the contents of the compromise deed and its objectives point towards its acceptance.

18. In Himachal Pradesh Cricket Association v State of Himachal Pradesh, *2018 (4) Crimes 324*, Hon'ble Supreme Court holds "[47]. As far as Writ Petition (Criminal) No. 135 of 2017 is concerned, the appellants came to this Court challenging the order of cognizance only because of the reason that matter was already pending as the appellants had filed the Special Leave Petitions against the order of the High Court rejecting their petition for quashing of the FIR/Charge-sheet. Having regard to these peculiar facts, writ petition has also been

purpose whatsoever. In the facts and circumstances peculiar to this case, the Court invokes the inherent jurisdiction under section 482 Cr.P.C. and quashes the FIR and all subsequent proceedings qua the petitioner(s). The bail bonds of the petitioners are accordingly discharged.

Petition allowed in the terms mentioned above. All pending applications, if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

14.07.2022
Jyoti-II

Whether speaking/reasoned: Yes
Whether reportable: No.