

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****Cr.MMO No.30 of 2023****Date of Decision: 06.03.2023**

Dimple Sharma

....Petitioner

Versus

State of Himachal Pradesh & others

...Respondents

*Coram***Hon'ble Mr. Justice Sushil Kukreja, Judge**Whether approved for reporting?¹

For the petitioner : Mr. Gurdev Negi, Advocate.

For the respondents : Mr. B.C. Verma, Additional Advocate General with Mr. R.P. Singh, Deputy Advocate General, for respondents No.1 & 2/ State.

Mr. Mukesh Sharma, Advocate, for respondent No.3.

Sushil Kukreja, Judge (Oral)

The accused (petitioner herein), after compromising the matter with complainant-respondent No.3, has come up before this Court under Section 482 of the Code of Criminal Procedure (Cr.P.C.), by invoking inherent powers of this Court, seeking quashing of FIR No.97/2015, dated

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

11.06.2015, under Section 279 of the Indian Penal Code (IPC), registered at Police Station Barmana, District Bilaspur, H.P.

2. The present FIR was lodged by Complainant-respondent No.3, Dila Ram, who is duly represented and identified by Mr. Mukesh Sharma, Advocate.

3. Today, respondent No.3 as well as the petitioner are present in person and the statement of complainant/ respondent No.3 has been separately recorded and placed on the file.

4. Respondent No.3 has stated that on his complaint, F.I.R. bearing No.97/2015, dated 11.06.2015, under Section 279, IPC was registered against the petitioner at Police Station Barmana, District Bilaspur, H.P. He further stated that now he has entered into a compromise with the petitioner-accused, vide Compromise Deed, Annexure P-4 and, therefore, he has no objection, if the aforesaid FIR and the consequent proceedings arising out of the said FIR, pending before the learned Judicial Magistrate First Class, Bilaspur, District Bilaspur, H.P., are quashed and set aside.

5. I have heard learned counsel for the petitioner, learned Additional Advocate General for respondents No.1 and 2/State as well as the learned counsel for respondent No.3 and also gone through the material available on record.

6. In ***Gian Singh Vs. State of Punjab and others, 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.P.C., the Hon'ble Apex Court 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's family have settled the dispute with offender. Jurisdiction vested in

High Court under Section 482 Cr.P.C. is held to be exercisable for quashing criminal proceedings in cases having overwhelming and predominately 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.

7. Further, the Apex Court in ***Parbatbhai Aahir alias Parbathbhai 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.

8. 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**, the Hon'ble Supreme Court 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.

9. No doubt, Section 279 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.P.C. is not inhibited by the provisions of Section 320 Cr.P.C. and FIR as well as criminal proceedings can be quashed by exercising inherent powers under Section 482 Cr.P.C., if warranted in given facts and circumstances of the case for securing the

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.

10. 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 the nature of the case, to save the time of the Court for utilizing to decide more effective and meaningful litigation, a common sense approach, based on ground of realities and bereft of the technicalities of law, should be applied.

11. In the instant case, since the matter has been amicably settled between the parties, therefore, keeping in view the nature of the offence, I am of the considered view that no fruitful purpose will be served to continue the proceedings against petitioner-accused as continuation of the proceedings will be an exercise in futility. The justice in the case demands that the dispute between the parties is put to an end and peace is restored in order to maintain harmonious relations/atmosphere between them.

12. Hence, considering the facts and the circumstances of the case in entirety, I am of the opinion that the present petition deserves to be allowed for securing the ends of justice and, therefore, the same is allowed. Accordingly, FIR No.97/2015, dated 11.06.2015 under Section 279 of IPC, registered against the petitioner at Police Station Barmana, District Bilaspur, H.P., as well as consequent proceedings arising out of the said FIR, pending before the learned Judicial Magistrate First Class, Bilaspur, District Bilaspur, H.P., are ordered to be quashed and set-aside.

13. The petition stands disposed of in above terms, so also the pending application(s), if any.

March 06, 2023
(VH)

(Sushil Kukreja)
Judge