

*Before Surya Kant & Paramjeet Singh, JJ.*

**VINOD @ BODA AND OTHERS**—*Petitioners*

*versus*

**STATE OF HARYANA AND ANOTHER**—*Respondents*

CRM No. M - 31765 of 2012

May 01, 2013

*Code of Criminal Procedure, 1973 - S. 482 - Indian Penal Code, 1860 - Ss. 148, 149, 332, 353, 186 & 506 - Petition for quashing on the basis of compromise for non-compoundable offences against State - The allegations in the FIR are that the petitioners have put hurdles in the official work of complainant - Ld. Single Judge referred the matter to larger Bench - "Whether the offences Under Section 353, 186, 332 IPC against Public Servant can be allowed to be compounded on the basis of compromise with the Public Servant?" - Held that High Court with a view to prevent abuse of law has inherent jurisdiction to quash non compoundable offences notwithstanding bar under Section 320 of Cr.P.C.- Where dispute has been settled amicably - Proceedings to be quashed to bring harmony between parties.*

*Held*, that the decision in Gian Singh's case (*supra*) also approves the view taken by a Five-Judges Bench of this Court in Kulwinder Singh & Ors. vs. State of Punjab & Anr., 2007(3) RCR (Cr.) 1052.

(Para 10)

*Further held*, that it is indeed now unarguable to say that the power exercisable by the High Court under Section 482 CrPC for the quashing of criminal prosecution is limited or affected by the provisions of Section 320 Cr.PC.

(Para 11)

*Further held*, that the refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 Cr.P.C and pass an appropriate order so as to secure the ends of justice.

(Para 13)

*Further held*, that the magnitude of inherent jurisdiction exercisable by the High Court with a view to prevent the abuse of law or to secure the ends of justice, is wide enough to include its power to quash the proceedings in relation to the non-compoundable offences including the ones involved in the present case notwithstanding the bar under Section 320 CrPC. Such a power, in our considered view, is exercisable by the High Court in all those circumstances where the conclusion of trial would ultimately result into futility.

(Para 15)

*Further held*, that in the present case, merely because the complainant was working as a teacher and injuries were caused to him while he was on duty at School, learned Single Judge has treated it to be a case of an offence against the 'society' observing that public servant has been prohibited from performing his duties, the proceedings cannot be quashed. Whereas, in the facts and circumstances of the case, the dispute was prima facie between the parties in their individual and private capacity. Therefore, even on merit, the present is a fit case where the ends of justice demand quashing of proceedings as the dispute has been settled amicably and this would bring harmony between the parties.

(Para 16)

Amit Kumar Goyal, Advocate *for the petitioners*.

R.D. Sharma, DAG, Haryana

Ramender Chauhan, Advocate *for respondent No.2*.

### **PARAMJEET SINGH, J.**

(1) The petition has come before us on a reference being made by the learned Single Judge regarding quashing of the FIR on the basis of compromise for the offences against police officer under Sections 148, 149, 332, 353, 186 and 506 of the Indian Penal Code.

(2) There has been a discord amongst and between the High The issue has been considered by the Full Bench of this Court and by the Hon'ble Supreme Court of India in various judgments. Now, again the learned Single Judge has doubted the correctness of judgment of this Court in *CRM M-31958 of 2012 titled Ranjit Singh and another vs. State of Punjab and another, decided on 08.11.2012*, wherein the identical offences have

been allowed to be compounded by another learned Single Judge. Learned Judge has also distinguished the judgment rendered by the Division Bench in *C.W.P. No. 4964 of 2013 titled as Court on its own motion vs. U.T. Chandigarh and others* wherein identical offences have been compounded.

(3) In the instant petition, the petitioner has invoked the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure for quashing of FIR No. 13, dated 13.10.2010, under Sections 148, 149, 332, 353, 186, 506 of the Indian Penal Code, registered at Police Station Titram, District Kaithal, on the basis of compromise dated 02.10.2012 (Annexure P/2).

(4) A brief reference to the facts is necessary. Respondent No.2 lodged a complaint alleging that he was working as a Science Teacher at G.S.S.S. Pyoda. At about 10.30 am, the complainant was doing the school work with the Principal Sh. Rajpal in his office. Sh. Sadhu Ram, who happened to be the husband of the Sarpanch came to the school and they discussed the matter with regard to approach passage to the school with Sh. Sadhu Ram. In the meantime, the petitioners allegedly came there and after calling out the complainant from the office, they had beaten the complainant. Various other allegations are also levelled in the FIR which we need not delineate here, as those are not necessary for the answer to the question of law before us.

(5) In the present case, when the petition was filed, the learned Single Judge directed the parties to get recorded their statements before the Trial Court with regard to genuineness of the compromise vide order dated 11.10.2012.

(6) In pursuance of order dated 11.10.2012, the learned Additional District & Sessions Judge, Kaithal has submitted his report dated 20.11.2012, which indicates that parties appeared before him and their respective statements with regard to validity and genuineness of compromise have been recorded. It is further mentioned in the report that the statements have been made by the parties without any pressure or coercion.

(7) Thereafter, vide order dated 09.04.2013, the learned Single Judge passed the following order:-

*"Vinod @ Boda etc. have preferred petition under Section 482 of the Code of Criminal Procedure (in short – the Cr.P.C.) for*

*quashing FIR No. 13 dated 13.10.2010 registered under Sections 148, 149, 332, 353, 186 and 506 of the Indian Penal Code (in short – the IPC) Police Station Titram District Kaithal (Annexure P-1) on the basis of compromise Annexure P-2.*

*2. Report of the trial Court has been received that parties have arrived at a compromise.*

*3. Learned counsel for the parties have arrived at a compromise and this Court (Jitendra Chaudhan, J.) vide order dated 8.11.2012 passed in Criminal Misc. No. M-31858 of 2012 titled as Ranjit Singh and Anr. vs. State of Punjab and Anr. allowed the compromise in respect of offences under Sections 353, 186, 341, 332, 427 and 34 of the IPC. Counsel for the petitioners also relied upon authority in C.W.P. No. 4964 of 2013 titled as Court on its own motion vs. U.T., Chandigarh and others and allowed the compromised.*

*4. Learned State counsel has submitted that compromise cannot be allowed for offence under Sections 353 and 186 of the IPC, as these offences are against the State.*

*5. I have considered the submissions made by both the sides and have gone through the records of this case.*

*6. So far as the reliance of petitioners on C.W.P. No. 4964 of 2013 titled as Court on its own motion vs. U.T. Chandigarh and others' case (supra) is concerned in that writ petition there was a dispute between the version given by the Head Constable on one side and Shri Rupinder Singh Khosla, Advocate on the other side and the Division Bench of this court entrusted the matter to the Registrar, Vigilance to carry out a fact finding inquiry.*

*7. As per report both the sides in the larger interest of the society and for maintaining harmony and strengthening the machinery of administration of justice have mutually decided not to refer the matter to the Court of law and the case was decided accordingly. It was observed in that judgment that there was no likelihood of any success and this exercise would prove to be in futility. The FIR was quashed at the threshold.*

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8. *The Hon'ble Apex court in authority Gian Singh vs. State of Punjab and another reported in 2012 (4) (Criminal) Page 543 while sum up the matter regarding compromise observed as under:-*

*"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 befittingly 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 predominately 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."*

9. *The allegations in the present case are that on 13.10.2010 at about 10.30 a.m. complainant was doing the school work with the Principal Shri Rajpal in his office. Sadhu Ram husband of the Sarpanch Gram Panchayat Pyoda came into the office with whom he and the Principal discussed about the passage approaching to the school. During this Kesha Ram son of Miyan, Jat village Pyoda came into the office who asked him masterji came out as they have to say something. He came out with Kesha Ram came out of the room of the Principal. He saw that in the premises of school, Balwinder Singh, Sukhbir Singh @ Batha, Bolia, Bodha, Kala, Jassu along with 2-3 more persons whom he could identify on coming before him again, were standing and when he came out side then Balwinder started abusing him and Jassu gave a knife blow which he was holding in his hands towards his neck and he stepback behind in his protection but even though the edge of knife hit his neck. From the back side Boda gripped him and Balwinder gave a Danti like sharp weapon blow upon him and he put forward his left hand in his protection*

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which hit his left hand. Bolia gave a danda blow to him which hit on his knee. Kala gave a danda blow which hit his left leg below knee. Sukhbir @ Batha and others 2-3 unidentified persons gave danda blows on his back and he raised alarm Bachao Bachao which attracted Rajpal Principal Sahib, Raghbir Singh lecturer, Shri Charan Singh D.P. Shri Shamsher Singh drawing teacher, Rameshwar Dass P.T.I. Shri Suresh Ravish Lecturer who all are posted in G.S.S.S. Pyoda came running on the spot from their class rooms and rescued the complainant from the assailants.

10. So, as per the allegations in the FIR, the accused/petitioners have put hurdles in the official work of complainant Satbir Singh. So, it is an offence against State and cannot be allowed to be compounded in view of authority Gian Singh's case (supra), referred to above. This Court however, in Criminal Misc. No. M-31858 of 2012 titled as Ranjit Singh and Anr. vs. State of Punjab and Anr.'s case (supra) allowed the compounding of offence in FIR under Sections 353, 186, 341, 332, 427 and 34 of the IPC. However, while sitting singly, I should accept the earlier verdict of this court or the matter may be referred to the larger Bench for decision whether the offences under Sections 353, 186, 341, 332, 427 and 34 of the IPC could be allowed to be compounded being offence against State.

11. So, the case be put up before Hon'ble the Chief Justice of this Court for deciding the following point:-

1. Whether the offences under Sections 353, 186 and 332 of the IPC against the public servant can be allowed to be compounded on the basis of compromise with the public servant?"

(8). We have perused the reference made by the learned Single Judge and are of the view that there is an inadvertent mistake in formulating the reference, so we reframe the question to be answered by us which reads as under:-

"Whether the offences under Sections 353, 186 and 332 of the Indian Penal Code against the accused-petitioners can be quashed on the basis of compromise with the complainant public servant?"

(9) The extent and sweep of inherent power exercisable by the High Court under Section 482 of the Code of Criminal Procedure for quashing the criminal proceedings on the basis of compromise between the accused and the victim of crime in cases which are not compoundable under Section 320 or 321 of the Code, has been considered in extenso and answered by the Hon'ble Supreme Court in Gian Singh's case (supra), laying down that the compounding of offence and quashing of criminal proceedings are two separate things and not interchangeable and that the two powers are distinct and different although ultimate consequence may be the same. It has been authoritatively ruled that where the offender and victim have settled their dispute, the High Court in exercise of its inherent power under Section 482 Cr.P.C., is competent to quash criminal proceedings even relating to the non-compoundable offences though such a power needs to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The pronouncement thus says:-

*"52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.*

*53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.*



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54. *Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens wellbeing of society and it is not safe to leave the crime- doer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which over whelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."*

(10) The decision in *Gian Singh's case (supra)* also approves the view taken by a Five-Judges Bench of this Court in *Kulwinder Singh & Ors. versus State of Punjab & Anr., (1)*.

(11) It is indeed now unarguable to say that the power exercisable by the High Court under Section 482 CrPC for the quashing of criminal prosecution is limited or affected by the provisions of Section 320 Cr.PC.

(12) We may, however, hasten to add that power of the Court under Section 320 CrPC to 'compound' an offence on the basis of compromise between the accused and the victim can be invoked only if the subject offence is compoundable. In other words, power under Section 320 CrPC is not exercisable in relation to a case of non-compoundable offence as ruled by the Hon'ble Supreme Court in a string of decisions including (i) *Surendra Nath Mohanty versus State of Orissa, (2)* (ii) *Bankat versus State of Maharashtra, (3)*, (iii) *Gulab Das & Ors. versus State of MP, (4)* and *B.S. Joshi and others versus State of Haryana and another, (5)*.

(13) The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 Cr.P.C and pass an appropriate order so as to secure the ends of justice.

(14) The doubt has been expressed by the learned Single Judge whether in exercise of inherent power under Section 482 CrPC criminal proceedings on the basis of compromise entered between the parties where the offence is against the public servant can be quashed or not by the High Court is the issue before us.

(15) The magnitude of inherent jurisdiction exercisable by the High Court with a view to prevent the abuse of law or to secure the ends of justice, is wide enough to include its power to quash the proceedings in

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(1) 2007 (3) RCR (Cr.) 1052

(2) (1995) 5 SCC 238

(3) (2005) 1 SCC 343

(4) (2011) 10 SCC 765

(5) (2003) 4 SCC 675

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relation to the non-compoundable offences including the ones involved in the present case notwithstanding the bar under Section 320 CrPC. Such a power, in our considered view, is exercisable by the High Court in all those circumstances where the conclusion of trial would ultimately result into futility.

(16) In the present case, merely because the complainant was working as a teacher and injuries were caused to him while he was on duty at School, learned Single Judge has treated it to be a case of an offence against the 'society' observing that public servant has been prohibited from performing his duties, the proceedings cannot be quashed. Whereas, in the facts and circumstances of the case, the dispute was prima facie between the parties in their individual and private capacity. Therefore, even on merit, the present is a fit case where the ends of justice demand quashing of proceedings as the dispute has been settled amicably and this would bring harmony between the parties.

(17) Moreover, in this case, the parties have already appeared before the Trial Court and the Trial Court has authenticated the compromise on the basis of the statements of the parties made before it.

(18) For the reasons stated above, it is held that in view of settled law, as discussed above, the powers of High Court under Section 482 CrPC are wide enough, though to be exercised sparingly and judiciously, and this Court can quash criminal proceedings in the peculiar facts of the case even where offence is against public servant.

(19) Consequently, in the facts and circumstances of this case and for the reasons aforesaid, we allow this petition. FIR No. 13, dated 13.10.2010, under Sections 148, 149, 332, 353, 186, 506 of the Indian Penal Code, registered at Police Station Titram, District Kaithal, and all the criminal proceedings arising out of the said FIR stand quashed.