

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM NO. M-1113 of 2015
DECIDED ON : March 30, 2015

Biny Rally and others

...Petitioners

versus

State of Punjab and another

...Respondents

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. Gaurav Rana, Advocate,
for the petitioners.

Mr. RPS. Sidhu, AAG, Punjab.

None for respondent No.2.

JASPAL SINGH, J. (ORAL)

This is a petition preferred under Section 482 of the Code of Criminal Procedure for quashing of Criminal Complaint No. 63 dated 25.11.2007/21.03.2009 under Sections 406/498-A IPC, Police Station Islamabad, Amritsar (Annexure P-1) as well as setting aside judgment of conviction and order of sentence dated March 07, 2012 passed by learned Judicial Magistrate Ist Class, Amritsar (Annexure P-2) and all subsequent proceedings arising therefrom, on the basis of compromise (Annexure P-3)

2. Vide impugned judgment of conviction and order of sentence, petitioners were sentenced to undergo RI for a period of one year and to pay a fine of ₹1000/- and in default of payment of fine, to further undergo

simple imprisonment for a period of 15 days for an offence, punishable under Section 498-A IPC.

3. Vide order dated January 13, 2015, parties were directed to appear before learned trial Court to record their statements with regard to validity, genuineness or otherwise of compromise deed and learned trial Court was directed to send the report, to this Court in this regard.

4. Report of learned trial Court has been received, in which, it has been mentioned that a compromise effected between the parties is without any coercion, pressure and with their free will. The same is genuine one. Even otherwise, matter involved in these proceedings is matrimonial in nature, which has been amicably put at rest.

5. Learned counsel for the parties have stated at the bar that matter involved is personal in nature, which has been amicably settled.

6. After having elaborately heard learned counsel for parties and perusal of record as well as report submitted by learned trial Court in respect of compromise, this Court is satisfied that compromise has been arrived at between the parties and after compromise, no dispute subsists between them.

7. In **Kulwinder Singh and others v. State of Punjab and others, 2007 (3) RCR (Criminal) 1052** ; a Full Bench of this Court while relying upon ratio of law laid down in **Abasaheb Yadav Honmane v. State of Maharashtra; 2008 (3) All India Criminal Law Reporter 676**; had held that FIR including the judgment of conviction and order of sentence recorded by learned trial Court, and affirmed by appellate Court, can be

quashed or set aside, on the basis of compromise if the fact and circumstances, of particular case, so warrant.

8. In **Kulwinder Singh's** case (supra), while approving the minority view in **Dharambir v. State of Haryana; 2005 (3) RCR (Criminal) 426**; a Full Bench of this Court observed as under:-

27. To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself i.e. "to prevent abuse of the process of any Court" or "to secure the ends of justice".

*28. In **Mrs. Shakuntala Sawheny v. Mrs. Kaushalya Sawheny and others (1980) 1 SCC 63**, Hon'ble Krishan Iyer, J. aptly summoned up the essence of compromise in the following words; "The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."*

The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it. In exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.

29. No embargo, be in the shape of Section 320(9) of the Criminal Procedure Code or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code.

30. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord,

landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Criminal Procedure Code in the event of compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

31. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code, which can affect the inherent powers of this Court under Section 482. Further, the same cannot be limited to matrimonial case alone and the Court has the wide power to quash the proceedings even if non-compoundable offences notwithstanding the bar under Section 320 of the Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

32. The power under Section 482 of the Criminal Procedure Code is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined parameters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Criminal Procedure Code has no limits. However the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The court is vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery”.

9. Adverting to the facts of the case in hand, parties to the lis have

buried their hatchet though at a penultimate stage i.e. at appellate stage. In case compromise is accepted and proceedings are quashed, it would certainly create harmonious relationship in between the parties and would result into removal of bitterness or ill-will existing between the parties since long. Applying the ratio of law emerging from above-referred cases to the facts and circumstances of instant case, this Court is of considered view that once a matter has been compromised by the parties, no useful purpose would be served by continuing the proceedings and to decide the matter between parties on merits. Rather, it would be nothing but an abuse of process of law as well as wastage of time not only of the Court but the parties.

10. As an upshot of afore-said discussion, instant petition is allowed and judgment of conviction and order of sentence rendered by learned trial Court is set aside and petitioners stood acquitted of the charges. Personal bonds and surety bonds furnished by petitioners shall stand discharged.

March 30, 2015
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(JASPAL SINGH)
JUDGE