IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM-M- 19180 of 2015
Date of decision:10.09.2015

Ramesh Chand & others **----Petitioner(s)**

V/s

State of Haryana and another **-----Respondent(s)**

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present:- Mr. Gurvinder Sandhu, Advocate for the petitioners.

Mr. Vikas Chopra, DAG, Haryana.

Mr. Jagmohan S. Ghumman, Advocate for respondent No.2/complainant.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of the judgment of conviction dated 07.04.2015 and order of sentence dated 08.04.2015 passed by learned Judicial Magistrate Ist Class, Gurgaon in Criminal Case No. 433 of 2010 bearing FIR No.265, dated 28.10.2009, under Sections 323, 325, 452, 506 and 34 IPC, registered at Police Station, Khaidki Doula, Distt. Gurgaon (Annexure P-1) and all subsequent proceedings arising therefrom, on the basis of compromise dated 16.05.2015(Annexure P-2).

This Court vide order dated 05.06.2015, has passed the following order:-

"Notice of motion.

Mr. Deepak K. Grewal, DAG, Haryana and Mr. Himanshu Puri, Advocate, who are present in Court, accept notice on behalf of respondents No.1 and 2 respectively.

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Parties concerned to appear before the trial Court on 24.07.2015 which shall record their statements regarding compromise alongwith an opinion about the genuineness of the same. A report shall be made after doing the needful with further report as to whether any of the accused was declared P.O. At any stage and whether or not any other criminal case is pending against the accused.

Direction to record statements before the trial Court should not be taken to be any acknowledgement of the compromise.

To come up on 10.9.2015. "

Pursuant to the aforesaid order dated 05.06.2015, the parties have appeared before the learned Additional Sessions Judge, Gurgaon and have got their statements recorded. On the basis of the statements so recorded by the parties, learned Additional Sessions Judge, Gurgaon has forwarded his report dated 11.08.2015, to the effect that the compromise entered between the parties is genuine, voluntary and the same has been effected without any coercion and undue influence.

Mr. Jagmohan S. Ghumman, Advocate, who has put in appearance on behalf for respondent No.2/complainant, namely, Smt. Saroj, states that the parties have entered into a compromise during the pendency of appeal. The petitioners were convicted by the learned Judicial Magistrate Ist Class, Gurgaon, vide judgment of conviction dated 07.04.2015 and order of sentence dated 08.04.2015 and now appeal is pending before learned Additional Sessions Judge.

Learned State counsel also does not dispute the factum of compromise entered between the parties.

I have heard learned counsel for the parties and have gone through the paper book.

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The learned Magistrate has awarded sentence to the petitioner as under:-

Under Section 323 IPC read with Section 34 IPC	Rigorous imprisonment for one year each and to pay fine of Rs.500/- each. In default of payment of fine to further to undergo simple imprisonment for one month.
Under Section 325 IPC read with Section 34 IPC	Rigorous imprisonment for one year each and to pay fine of Rs.500/- each. In default of payment of fine to further to undergo simple imprisonment for one month.
Under Section 452 IPC read with Section 34 IPC	Rigorous imprisonment for one year each and to pay fine of Rs.500/- each. In default of payment of fine to further to undergo simple imprisonment for one month.

However, all the sentences were directed to run concurrently.

This Court in the case of ***Sube Singh and another Versus State of Haryana and another, 2013(4) RCR (Criminal) 102,*** has considered the compounding of offences at the appellate stage and has observed that even when appeal against the conviction is pending before the Sessions Court and parties entered into a compromise, the High Court is vested unparallel power to quash criminal proceedings at any stage so as to secure the ends of justice and has observed as under:

> "*15. The refusal to invoke power under Section 320 Cr.PC, however, does not debar the High Court from resorting to its inherent power under Section 482 Criminal Procedure Code and pass an appropriate order so as to secure the ends of justice.*
>
> *16. As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code to quash the criminal proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has*

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been held guilty and convicted by the trial Court, we find that in ***Dr. Arvind Barsaul etc. v. State of Madhya Pradesh & Anr., 2008(2) R.C.R. (Criminal) 910 : (2008)5 SCC 794****, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498A Indian Penal Code and sentenced to 18 months' imprisonment and his appeal was pending before the first appellate court. The Apex Court quashed the criminal proceedings keeping in view the peculiar facts and circumstances of the case and in the interest of justice observing that "continuation of criminal proceedings would be an abuse of the process of law" and also by invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.*

17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.

18. xxx xxx

19. xxx xxx

20. xxx xxx

21. In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would

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2015.09.14 18:26
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disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.

22. Consequently and for the reasons afore-stated, we allow this petition and set aside the judgement and order dated 16.03.2009 passed in Criminal Case No. 425-1 of 2000 of Additional Chief Judicial Magistrate, Hisar, on the basis of compromise dated 08.08.2011 arrived at between them and their step-mother respondent No.2 (Smt. Reshma Devi) w/o late Rajmal qua the petitioners only. As a necessary corollary, the criminal complaint filed by respondent No.2 is dismissed qua the petitioners on the basis of above-stated compromise. Resultantly, the appeal preferred by the petitioners against the above-mentioned order dated 16.03.2009 would be rendered infructuous and shall be so declared by the first Appellate Court at Hisar."

Similarly, in the case of ***Baghel Singh Versus State of Punjab 2014(3) RCR (Criminal) 578*** whereby the accused was convicted under Section 326 IPC and was convicted and sentenced for two years, the parties entered into compromise during the pendency of the appeal. This Court while relying upon the judgment of ***Lal Chand Versus State of Haryana, 2009 (5) RCR (Criminal) 838*** and ***Chhota Singh Versus State of Punjab 1997(2) RCR (Criminal) 392*** allowed the compounding of offence in respect of offence under Section 326 IPC at

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the appellate stage with the observation that it will be a starting point in maintaining peace between the parties, such offences can be compounded.

In view of the above, no useful purpose would be served to continue with the proceedings before the appellate Court. However, considering the fact that the FIR was registered on 28.10.2009 and the State machinery was put to its optimum use till date, the petitioners are liable to pay costs.

Therefore, while relying upon the aforesaid judgments and coupled with the fact that the parties have entered into a compromise and learned Additional Sessions Judge, Gurgaon, has forwarded his report in support of genuiness of the compromise, the impugned judgment of conviction dated 07.04.2015 and order of sentence dated 08.04.2015 passed by the trial Court in Criminal Case No. 433, dated 23.12.2010, are set aside, subject to the payment of costs of ₹10,000/- to be deposited with the Haryana State Legal Services Authority, Chandigarh.

Resultantly, the appeal preferred by the petitioners against the aforesaid judgment of conviction and order of sentence is rendered infructuous and shall be declared so by the first appellate Court.

The present petition is, accordingly, allowed on the indicated terms.

September 10, 2015 **(HARI PAL VERMA)**
Anjal **JUDGE**

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