

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

**Criminal Misc. No. M-19406 of 2015
Date of Decision:-30.7.2015**

Pawan Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

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. Rahul Vats, Advocate
for the petitioner.

Mr. Sulinder Kumar, AAG Haryana.

Mr. B.S. Saroha, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

Prayer in this petition is for quashing of FIR No.224 dated 12.7.2010, under Sections 323, 324, 326 and 506 IPC, registered at Police Station Safidon, District Jind and to set aside the judgment dated 30.8.2012 passed by learned Judicial Magistrate 1st Class, Safidon in Criminal Case No.19/1 of 2010, whereby the petitioner has been convicted and sentenced, on the basis of compromise. The petitioner has been ordered to undergo simple imprisonment for one year under Section 323 IPC, rigorous imprisonment for three years under Section 324 IPC, rigorous imprisonment for three years under Section 326 IPC as well as sentenced to undergo rigorous imprisonment for two years under Section

506 IPC. All the substantive sentences were ordered to run concurrently.

Through the present case, quashing of FIR/setting aside of judgment and order dated 30.8.2012 passed by the trial Court has been sought on the basis of compromise dated 2.6.2015 entered into between the parties during the pendency of the appeal before the learned Additional Sessions Judge, Jind. Vide order dated 8.6.2015, while placing reliance on the judgments referred by learned counsel for the petitioner of **Sube Singh and another vs. State of Haryana and another 2013(4) RCR (Criminal) 102** and **Rajender Kumar vs. State of Haryana 1998 (2) RCR (Criminal) 635**, has directed the parties to appear before the Appellate Court to get their statements recorded in support of the compromise entered between the parties.

Pursuant to the order dated 8.6.2015, the parties have appeared before the Appellate Court and got their statements recorded. While recording the statements of the parties, learned Additional Sessions Judge, Jind has forwarded the report dated 14.7.2015 and has shown his satisfaction regarding the compromise having been entered between the parties voluntarily and without any pressure.

Learned counsel appearing for the complainant also does not dispute the factum of compromise entered into between the parties.

This Court in the case of **Sube Singh** (supra) 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 CrPC, 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 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 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 vs. 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 vs. State of Haryana, 2009 (5) RCR (Criminal) 838*** and ***Chhota Singh vs. State of Punjab 1997(2) RCR (Criminal) 392*** allowed the compounding of offence in respect of offence under Section 326 IPC at the appellate stage with the observation that it will be a starting point in maintaining peace between the parties, such offence can be compounded.

Therefore, by relying upon the aforesaid judgments and coupled with the fact that when the parties have entered into compromise, the order dated 30.8.2012 passed by the trial Court in Criminal Case No.19/1 of 2010 is set aside subject to payment of costs of Rs.10000/- to be deposited with the Punjab State Legal Services Authority, Chandigarh, receipt of which shall be submitted in the Registry of this Court within one month from today and the Registry shall tag the same with the case file.

July 30, 2015
Vijay Asija

(**HARI PAL VERMA**)
JUDGE