

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

**Criminal Misc. No. M-23216 of 2015  
Date of Decision: 18.08.2015**

Dalbir Singh & others

...Petitioner(s)

Versus

State of Punjab & 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. S.S. Goraya, Advocate for the petitioner (s).

Mr. R.S. Nain, AAG, Punjab.

Mr. Amandeep Singh Gill, Advocate for respondent no.2.  
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**HARI PAL VERMA J.(Oral)**

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.62 dated 7.6.2010 under Sections 326, 324, 323, 148, 149 IPC registered at Police Station Kalanaur, District Gurdaspur (Annexure P-1) on the basis of compromise dated 10.7.2015 (Annexure P3) arrived at between the parties.

The quashing of FIR is being sought during the pendency of appeal preferred by the petitioners before the lower Appellate Court against the judgment dated 20.11.2014 passed learned Judicial Magistrate Ist Class, Gurdaspur, whereby learned Magistrate has convicted the petitioners under Section 324 read with Section

149 IPC and sentenced them as under:-

| <b>Offence under Section</b>                                                                                | <b>Imprisonment with rigorous imprisonment</b> | <b>Fine</b>               | <b>In default of fine, with rigorous imprisonment</b> |
|-------------------------------------------------------------------------------------------------------------|------------------------------------------------|---------------------------|-------------------------------------------------------|
| 324 Indian Penal Code for convicts Dalbir Singh, Shingara Singh, Jasbir Singh, Avtar Singh and Gurpal Singh | 1 Year to each of convicts                     | Rs.500/- to each convicts | One month to each of convicts.                        |

This Court vide order dated 20.7.2015 had directed the parties to appear before the lower Appellate Court for recording of their statements with regard to the compromise/settlement dated 10.7.2015 (Annexure P-3).

Pursuant to the aforesaid order dated 20.7.2015, the parties have appeared before learned Additional Sessions Judge, Gurdaspur and have got statements recorded in support of the compromise. On the basis of the statements so recorded, learned Additional Sessions Judge, Gurdaspur has forwarded his report dated 28.7.2015, which suggests that the compromise entered between the parties is without any threat, pressure or coercion from the accused party. It has been further submitted that the complainant has no objection if the FIR is quashed and the accused are acquitted.

It is not out of place to mention here that the parties were

directed to appear before the Appellate Court for the reason that against the order dated 20.11.2014 passed by Judicial Magistrate Ist Class, Gurdaspur, whereby the accused-petitioners were convicted under Sections 324/149 IPC, the petitioners have already filed an appeal before the Appellate Court which is pending before learned Additional Sessions Judge, Gurdaspur.

This Court in the case of **Chhota Singh v. State of Punjab 1997(2) RCR (Criminal) 392** has allowed quashing but for the same offences. Para 3 of the said judgment reads as under:-

*“3. The question is whether compromise can be accepted when the conviction is for offences which are not compoundable. Learned counsel for the petitioners has argued that the powers of the High Court in accepting the compromise are unfettered. This is also the argument of learned counsel for the complainant. In view of the principles laid down in **Criminal Misc. No.11501-M of 1996 titled Sunil Kumar Yadav v. State of Punjab and another** wherein it has been held that if the compromise is for the benefit of the parties and for the betterment of all concerned, it can be accepted, the application deserves to be allowed, because the parties are closely related and it will be a starting point in maintaining peace between the brothers and their families. This court relying on the said judgment, and the judgments in the case of (1) **Mahesh Chand and another v. State of Rajasthan, 1990(3) Recent C.R. 332**; (2) **State of Punjab v. Shinder Pal, 1992(3) Recent C.R. 506**; (3) **Mohinder Singh and others v.***

**State of Punjab and others, 1994(1) Recent C.R. 84**  
and (4) **Mrs. Shakuntla Sawhney v. Mrs. Kaushalya**  
**Sawhney, U.J. (S.C.) 1979, 478** had allowed the prayer  
for quashing the FIR.”

Similarly, this Court in the case of **Baghel Singh v.**  
**State of Punjab 2014(3) RCR (Criminal) 578** while relying upon the  
judgment passed in the case of **Lal Chand v. State of Haryana**  
**2009(5) RCR (Criminal) 838 (P&H)** compounding of offences was  
allowed in respect of offence under Section 326 at the Appellate  
stage, where the Court has come to a conclusion that that it will be a  
starting point in maintaining peace between the parties. Moreover,  
the Hon'ble Apex Court in the case of **Y. Suresh Babu v. State of**  
**A.P. and another 2005(1) SCC 347** has ordered compounding of  
offence under Section 326 IPC, which was otherwise not  
compoundable and thus, leave to compound the offence was granted  
in order to preserve amity and good relations, as the parties in that  
case were from the same locality and had reconciled their  
differences.

In the case of **Sube Singh and another v. State of**  
**Haryana 2013(4) RCR (Criminal) 102**, a Division Bench of this  
Court has held that when the offences are private in nature and not  
against the whole society, the High Court is empowered to  
compound offences under Section 482 CrPC. The offences can be  
compounded even at appellate stage. In the said case, the

Additional Chief Judicial Magistrate had convicted the accused-therein under Sections 420, 467, 468 read with Section 120-B IPC and while the appeal against the said judgment was pending before Sessions Court, the parties entered into a compromise. This Court held that the High Court is vested with unparallel power to quash criminal proceedings at any stage to secure ends of justice. 'Any stage' include the stage during which appeal is pending before the Appellate Court.

In **Sube Singh and another v. State of Haryana** (*supra*), while dealing with question no.2 regarding the scope of Section 482 CrPC, this Court has held as under:-

**“Question No.2**

(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 CrPC 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. vs. State of Madhya Pradesh & Anr., (2008) 5 SCC 794***, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498-A IPC 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 CrPC 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 CrPC 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) Since the petitioners have relied upon the compromise deed dated 08.08.2011, we thought it appropriate to ascertain firstly the genuineness of the settlement and consequently passed the following order on 08.08.2012:-*

*“Before we delve upon the issued involved, especially in the light of the reference order dated 16.12.2011, it appears expedient that the genuineness and validity of the compromise dated 08.08.2011 (Annexure P-2) must be established. Consequently, we direct the learned Additional Sessions Judge, Fast Track Court, Hisar to enable the petitioner; witnesses of the compromise deed and the complainant-mother to appear and depose in support of the compromise deed. The Additional Sessions Judge shall thereafter send a report to*

*this Court which shall enlighten the living conditions of the complainant and the manner in which she is being looked after by her family members. The report shall be sent as early as possible but before the next date of hearing.”*

*(19) In compliance thereto, the parties appeared before the learned Additional Sessions Judge at Hisar who, after examining the relevant record and the witnesses, has sent the following report dated 06.09.2012 to this Court:-*

*“Smt. Reshma Devi widow of Rajmal, resident of Jhanjanwala, District Jind deposed before this Court that she had filed a complaint against Rameshwar, Sube Singh and others about cheating committed with her regarding her land. In said criminal complaint, Sube Singh etc. were convicted and they had filed an appeal in the Court. She further deposed that on 08.08.2011 with the intervention of members of Panchayat, a compromise had entered between her, Sube Singh and Rameshwar, which was reduced into writing which is marked as X-1. She stated that she has heard the contents of compromise dated 8.8.2011 mark X-1 it is the same compromise, which was got affected by Panchayat between her and her two sons Sube Singh and Rameshwar and in presence of daughter Kamlesh, Ved Parkash her son-in-law, Kuldeep Sarpanch, village Jhanjanwala, Sunita, the member Panchayat Jhanjanwala and all the parties to the compromise had put their respective thumb impressions and signatures after understanding. She also deposed that as per the compromise she*

*has agreed that she had no objection, if the case/appeal preferred by Sube Singh and Rameshwar is put to an end and the same is set aside and they are acquitted. She also testified that she had agreed to give statement or execute affidavit in favour of Sube Singh and Rameshwar in the Court and would also cooperate with Sube Singh and others in putting an end to the dispute with them and settled all the matters in said respect. She also stated that she is residing together with her sons Sube and Rameshwar under the same roof and she stated that her sons Sube Singh and Rameshwar are keeping her well and looking after her. She also testified that she has made the statement in the court voluntarily and with full understanding. Smt. Kamlesh wife of Ved Parkash (daughter of Reshma) and Ved Parkash son of Har Narain, (son in law of Smt. Reshma), Kuldeep Sarpanch, village Jhanjanwala, Sunita, Member Panchayat village Jhanjanwala District Jind in their separate statements deposed that regarding the criminal complaint instituted by Smt. Reshma Devi which led to the conviction of Sube Singh and Rameshwar and their filing appeal in the court, a compromise dated 8.8.2011 mark X-1 was reduced into writing and as per the compromise the parties to the same had agreed that Smt. Reshma Devi would have no objection, if the conviction of Sube Singh and Rameshwar is set aside and they are acquitted and it was also agreed that Reshma would give the statement in the court in said regard. They also deposed that Sube Singh and*

*Rameshwar are keeping Smt. Resham well and are serving her. They accepted the compromise mark X-1 as correct as entered into between the parties. Rameshwar and Sube Singh, the appellants also suffered a separate statement that a compromise dated 8.8.2011 mark X-1 has been entered between the parties with the assistance of Panchayat members and their sister and brother-in-law. They stated that their mother Smt. Reshma is living with them and they are serving her. Shri Pawan Kumar, Advocate identified Smt. Reshma, Kamlesh wife of Ved Parkash, Ved Parkash son of Har Narain, Kuldeep, Sarpanch village Jhanjanwala and Sunita, Member Panchayat village Jhanjanwala and Shri MR Mehta, Advocate identified the appellants Sube Singh and Rameshwar. From the statements of the parties discussed above and compromise dated 08.08.2011 mark X-1, it is made out that the parties have arrived at aforesaid compromise willingly. The compromise dated 8.8.2011 mark X-1 appears genuine and valid document executed by the parties as per their statements recorded above.”*

*(20) It has thus been ascertained to our satisfaction and stands established that the compromise arrived at between the parties is genuine, willful and bona fide. It is also proved that the petitioners and respondent No.2 are living under the same roof. In fact to remove any sort of doubts regarding the genuineness of the compromise, respondent No.2 appeared before us along with her daughter and made a statement on oath on 03.04.2013*

*in support of the compromise. She also stated that the parties are living under the one roof and she is being well looked after by her sons, namely, the petitioners.”*

In this manner, this Court had allowed the said petition and set aside the judgment passed by Additional Chief Judicial Magistrate, Hisar on the basis of compromise and the offences were compounded.

Thus, in view of judgments of this Court in **Sube Singh and another v. State of Haryana** (*supra*), **Baghel Singh v. State of Punjab** (*supra*) and judgment of Hon'ble Apex Court in the case of **Y. Suresh Babu v. State of A.P.** (*supra*), the present petition is allowed and FIR No.62 dated 7.6.2010 under Sections 326, 324, 323, 148, 149 IPC registered at Police Station Kalanaur, District Gurdaspur (Annexure P-1) is quashed on the basis of compromise dated 10.7.2015 (Annexure P3) arrived at between the parties. Consequently, the judgment of conviction and sentence dated 20.11.2014 passed by learned Judicial Magistrate Ist Class, Gurdaspur is set aside and thus, the appeal preferred by the petitioners against the aforesaid judgment dated 20.11.2014 has rendered infructuous and shall be declared so by learned first Appellate Court.

August 18, 2015  
**AK**

**( HARI PAL VERMA )**  
**JUDGE**