

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No. 626 of 2003
Date of Decision:-18.11.2015

Surjit Singh

...Petitioner

Versus

State (Union Territory Administration), U.T. Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Davinder Lubana, Advocate for the petitioner.

Mr. Parveen Chauhan, Advocate for
Mr. G.S. Wasu, Additional Public Prosecutor
for U.T. Chandigarh.

HARI PAL VERMA J. (Oral)

Petitioner, namely, Surjit Singh son of Bhag Singh has filed the present revision petition against the judgment dated 06.03.2003 passed by Learned Addl. Sessions Judge, Chandigarh, whereby his appeal against the judgment of conviction and order sentence dated 18.01.2002 passed by Judicial Magistrate 1st Class, Chandigarh, was dismissed.

Learned Judicial Magistrate 1st Class, Chandigarh, vide judgment dated 18.01.2002 had convicted the petitioner for offence punishable under Section 325/34 IPC and sentenced him to undergo rigorous imprisonment for one year and a fine of Rs.500/- under section 325 IPC, in default of payment of fine to further undergo rigorous imprisonment for one month.

Briefly stated, the facts of the case are that on 31.12.1999, Ajmer Singh son of Tarlok Singh, resident of Village Bhagwanpura lodged DDR No.38 dated 31.12.1999 to the effect that on the same day at about 5.00 PM, Kesro wife of Bhag Singh was going in front of his shop from whom he had to take Rs.1100/- on account of ration purchased by her. When the complainant demanded the money from her, she started abusing him. In the meantime son of Kesro (Surjit Singh-petitioner herein) also came there and caught hold of complainant and gave fist blow on his face and other parts of his body. During the scuffle, Rs.5000/- of the complainant were also lost. Complainant was rescued from the clutches of accused by one Gural Singh.

On the basis of above DDR, FIR was registered on 10.01.2000. The police investigated the matter and filed challan. Copies of the documents as relied upon by the prosecution were supplied to the accused free of cost, as envisaged under Section 207 Cr.P.C. The petitioner and Kesro were charge sheeted under Section 325 read with section 34 IPC to which they pleaded not guilty and claimed trial.

In order to substantiate the charges, the prosecution examined Dr. Rakesh Sharma (PW-1), Ajmer Singh complainant-Injured (PW-2), Hari Singh (PW-3), ASI Karam Singh (PW-4), Dr. Sarita Suri (PW5) and Pushpa (PW-6) and thereafter closed the evidence. In statements under Section 313 Cr.P.C., the accused denied the incriminating circumstances appearing the prosecution evidence and pleaded their innocence and false implication.

The learned trial Court, vide judgment dated 18.01.2002, held accused guilty of offence punishable under section 325/34 IPC,

however, extended the benefit of probation to accused Kesro and sentenced the petitioner as aforesaid.

Against the judgment of conviction and order sentence dated 18.01.2002 passed by learned trial Court, petitioner preferred an appeal before learned Addl. Sessions Judge, Chandigarh, however, learned lower appellate Court vide judgment dated 06.03.2003, reduced the sentence of the petitioner from one year rigorous imprisonment to nine months of rigorous imprisonment, maintaining the imposition of fine, under Section 325 IPC.

It is in the aforesaid circumstances, the petitioner has filed the present revision petition.

This Court, vide judgment dated 21.03.2009, while dismissing the revision petition on merits, keeping in view the longevity of the trial faced by the petitioner, modified the sentence to that of six months without any alteration in the sentence of fine.

Thereafter, petitioner vide Criminal Misc. Application No.34263 of 2009 sought recalling of judgment/order dated 21.03.2009 passed in instant revision petition in view of compromise dated 29.01.2009 on the ground that as the petitioner was not aware of the fixation of case before this Court, he could not appear on 21.03.2009. However, said application was dismissed vide order dated 20.07.2009.

Aggrieved against the order dated 20.07.2009 passed by this Court, the petitioner approached the Hon'ble Apex Court by way of Criminal Appeal No.2409 of 2010, titled as "Surjit Singh Vs. State (Union Territory Admn.)", which was disposed of vide order dated 16.12.2010, observing as under:-

“Heard both sides.

Leave granted

Considering the grievance expressed by the parties and also taking note of the fact that the parties have arrived at mutual compromise, we feel that ends of justice would be met by remitting the matter to the High Court for passing fresh appropriate orders. On this ground, the impugned order of the High Court is set aside. The matter is remitted to the High Court for fresh disposal. Both the parties are at liberty to place the compromise deed arrived between them before the High Court.

The criminal appeal is disposed of accordingly.

Since this Court has exempted the appellant from surrender, the same shall continue till the final order being passed by the High Court.”

In the light of the aforesaid order dated 16.12.2010 passed by the Hon’ble Apex Court, the present revision petition is re-listed for hearing.

I have heard learned counsel for the parties and have gone through the case file.

Learned counsel for the petitioner contends that on 21.03.2009 when the revision petition was decided by this Court, the petitioner could not appear before this Court as he was not aware of the fixation of the case before this Court and as such, the factum of compromise dated 29.01.2009 could not be brought to the notice of this Court. He further submits that as against the modified sentence of 06 months awarded to the petitioner, he remained in custody for a period of about 03 months and since there is a compromise between the parties, the sentence may be reduced to the period already undergone. He also

submits that petitioner is first time offender and there is no other such case registered against the petitioner.

Learned counsel for the petitioner relies upon a Division Bench judgment of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013(4) R.C.R. (Criminal) 102,** to contend that this court has power to compound the offences even at the appellate stage.

Mr. Parveen Chauhan, Advocate, who has put in appearance on behalf of Mr. G.S. Wasu, Additional Public Prosecutor, does not dispute the factum of compromise entered between the parties.

This Court in **Sube Singh's case (supra)** has observed as under:-

*“(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Cr.P.C. 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 Cr.P.C. 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 Cr.P.C. 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.***”

In view of the facts and circumstances of the case and taking into consideration the fact that the incident is of the year 1999 and the petitioner is facing agony of trial for the last more than 15 years as well as the fact that the parties have entered into compromise, I am of the considered opinion that ends of justice would be met, if the conviction of the petitioners is affirmed, however, sentence of the imprisonment is reduced to the period already undergone.

Accordingly, the conviction of petitioner-Surjit Singh is upheld, however, his sentence is reduced to the period already undergone by him, subject to the payment of fine, if already not paid.

With the aforesaid modification in sentence, the instant revision petition shall stand dismissed.

(HARI PAL VERMA)
JUDGE

November 18, 2015
ANJAL