

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

CRM-M-30057 of 2015.

Decided on:-10.12.2015.

Baljit Singh.

.....Petitioner.

Versus

State of Punjab and another

.....Respondents.

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

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

Present:- Mr. B.S. Baath, Advocate for the petitioner.

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

None for respondent No.2.

HARI PAL VERMA, J.

Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.228 dated 24.12.2009 under Sections 324 and 326 read with Section 34 IPC, registered at Police Station Dhariwal, District Gurdaspur (Annexure P-1) and all other subsequent proceedings arising out of the said FIR on the basis of compromise dated 6.6.2015 (Annexure P-4) which has been executed between the parties after the judgment dated 12.12.2014 (Annexure P-2) whereby the petitioner has been convicted and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.2,000/- under Section 326 IPC by learned Chief Judicial Magistrate, Gurdaspur. It has also been prayed that respondent No.2-complainant may

be allowed to compound the offences during the pendency of criminal Appeal No.81/14 which is pending before learned Sessions Judge, Gurdaspur and the judgment dated 12.12.2014 (Annexure P-2) may be set aside in view of compromise between the parties.

Vide order dated September 07, 2015 of this Court, the parties were directed to be present themselves before the trial Court on 15.9.2015 for recording their statements with regard to compromise. The trial Court was further directed to record the statements of both the parties and to send its report regarding genuineness of compromise.

Pursuant to the aforesaid order, the learned Chief Judicial Magistrate, Gurdaspur has recorded the statements of the parties and forwarded the report dated 28.9.2015 to the effect that in view of the statements of the parties, compromise appears genuine, voluntary and without any coercion.

Learned State counsel, on instructions from HC Ranjit Singh, does not dispute the factum of compromise.

Though today nobody has put in appearance on behalf of respondent No.2-complainant Gurdial Singh, but no prejudice would be caused to him as he has already made the statement before the learned Magistrate on 15.9.2015 regarding the validity and genuineness of the compromise, which reads as under:

“The matter has been compromised between me and

Baljit Singh son of Tarsem Singh, resident of village Khan Malak. The accused in the FIR were Tarsem Singh son of Sohan Singh, Gurmukh Singh son of Tarsem Singh and Baljit Singh son of Tarsem Singh. During the trial, Tarsem Singh and Gurmukh Singh died. Baljit Singh was convicted. Appeal filed by Baljit Singh is pending in the Court of Ld. Sessions Judge, Gurdaspur.

The compromise has been effected out of my own free will and same is without any coercion or undue influence.”

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 under Section 482 Cr.PC 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 Versus State of Punjab***

2014(3) RCR (Criminal) 578 whereby the accused was convicted under Section 326 IPC and was sentenced to undergo rigorous imprisonment 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 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, while relying upon the aforesaid judgments and coupled with the fact that the parties have entered to compromise and learned Magistrate has submitted his report in support of genuineness of the compromise, the present petition is allowed subject to payment of costs of Rs.5,000/- to be deposited with the Punjab State Legal Services Authority, Chandigarh.

Resultantly, the impugned judgment of conviction and order of sentence dated 12.12.2014 passed by learned Chief Judicial Magistrate, Gurdaspur (Annexure P-2) are set aside. The appeal preferred by the petitioners against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first appellate Court.

December 10, 2015
Yag Dutt

(HARI PAL VERMA)
JUDGE