

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

CRM-M-35260 of 2015

Date of Decision: 22.12.2015

Nirmal Singh and another

....Petitioner(s)

Versus

State of Punjab and another

....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Karan Chaudhary, Advocate for the petitioners.

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

HARI PAL VERMA, J. (ORAL)

Prayer in this petition filed under Section 482 read with Section 320 Cr.P.C. is for quashing of FIR No.17 dated 3.02.2008, under Sections 326 and 323 read with Section 34 IPC, registered at Police Station Shri Hargobindpur, District Gurdaspur (Annexure P-1) and subsequent judgment and order of sentence dated 24.12.2014 passed by learned Judicial Magistrate 1st Class, Batala, District Gurdaspur, whereby petitioners have been convicted under Sections 326 and 324 IPC. The petitioners have filed criminal appeal, which is pending before the learned Sessions Judge, Gurdaspur.

The petitioners, namely, Nirmal Singh, Amarjit Singh were convicted and sentenced by the trial Court as under:-

<i>Name of the Convict</i>	<i>Under Section</i>	<i>Rigorous Imprisonment</i>	<i>Fine</i>	<i>In default of payment of fine to further undergo rigorous imprisonment</i>
<u>Nirmal Singh</u>	326 IPC	01 year	Rs.500/-	One month
	323 IPC	06 months	Rs.500/-	One month
<u>Amarjit Singh</u>	326/34 IPC	01 year	Rs.500/-	One month
	323 IPC	06 months	Rs.500/-	One month

However, all the sentences were ordered to run concurrently.

Quashing of the aforesaid FIR and judgment dated 24.12.2014 passed by the learned trial Court is sought on the basis of compromise/statement dated 01.09.2015 and 18.09.2015 (Annexure P-4) (colly), made before the learned Sessions Judge, Gurdaspur, during the pendency of the appeal.

Vide order dated 28.10.2015 of this Court, the parties were directed to present themselves before the appellate Court on 19.11.2015 for recording their statements with regard to compromise. The appellate Court was directed to submit a report whether compromise is genuine, voluntary and without any coercion or undue influence; number of persons arrayed as accused in the FIR and also whether any accused is proclaimed offender?

Pursuant to the aforesaid order 28.10.2015, the learned Sessions Judge, Gurdaspur has recorded the statements of the parties and forwarded the report dated 30.11.2015 to the effect that matter has been settled between the parties and the compromise is genuine one and has

been entered without any coercion or undue influence. Complainant-respondent No.2, namely, Sarabjit Kaur wife of Satnam Singh, resident of village Cheema Khudi, Tehsil Batala has suffered a statement that she had compromised the matter with the petitioners-accused with her own free will and consent and without any coercion or undue influence and have no objection in case the FIR is quashed against accused, namely Nirmal Singh and others.

On the basis of the aforesaid statement and the report submitted by the learned District & Sessions Judge, Gurdaspur, it is established that the complainant has genuinely entered into a compromise with the accused-petitioners.

Learned counsel for the State does not dispute the factum of compromise.

Though today nobody has put in appearance on behalf of respondent No.2/complainant-Sarabjit Kaur, but no prejudice would be caused to her, as she has already made the statement before the learned District and Sessions Judge on 19.11.2015 regarding the validity and genuineness of the compromise.

Heard.

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 unparalleled 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 498-A 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 replying upon the aforesaid judgements, coupled with the fact that the parties have entered into a compromise and learned Sessions Judge has submitted his report in support of genuineness of the compromise, the present petition is allowed and FIR No.17 dated 03.02.2008, under Sections 326 and 323 read with Section 34 IPC, registered at Police Station Shri Hargobindpur, District Gurdaspur (Annexure P-1) and all subsequent proceedings arising therefrom qua the petitioners are quashed, on the basis of compromise/statement dated 01.09.2015 and 18.09.2015[Annexure P-4 (colly.)].

Consequently, the impugned judgment of conviction and order of sentence dated 24.12.2014 passed by the learned Judicial Magistrate Ist Class, Batala qua the petitioners, is 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.

(HARI PAL VERMA)
JUDGE

22.12.2015
Anjal