

123

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****CRM-M-9546 of 2015****Date of Decision: November 04, 2015**

Rahul and another

.....Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA**Present:** Mr. G.S. Sandhu, Advocate
for the petitioners.

Ms. Mahima, AAG Haryana.

Mr. Ish Puneet Singh, Advocate for
Ms. Pooja Chopra, Advocate
for respondents No.2 to 5.

SABINA, J.

Petitioners have filed this petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.472 dated 06.09.2010, under Sections 147, 148, 323, 324, 326, 506, 427 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Assandh, District Karnal and all consequential proceedings arising therefrom, on the basis of compromise.

Learned counsel for the petitioners has submitted that the petitioners were tried by Juvenile Justice Board and were convicted and sentenced qua commission of offence punishable under Sections 148, 323, 324, 326 and 506 read with Section 149 IPC. Appeal filed by the petitioners against the judgment/order of their conviction and sentence is pending before the Appellate Court at Karnal. Co-accused of the petitioner who had faced trial before the Magistrate have since been acquitted by the trial Court vide judgment dated

04.02.2014 (Annexure P-10) in view of the compromise effected between the parties. Since now parties have amicably settled their dispute, criminal proceedings against the petitioners were liable to be quashed. In support of his arguments, learned counsel for the petitioners has placed reliance on the judgment of this Court in Sube Singh and another Vs. State of Haryana and another 2013 (4) R.C.R. (Criminal) 102, wherein, following questions were framed for consideration:-

“(1) Whether the power exercisable by the High Court under Section 482 Cr. P.C. is controlled by Section 320 Cr. P.C. or it can be invoked in an appropriate case even if the offences are not compoundable in nature?

(2) Whether criminal proceedings can be quashed by the High Court in exercise of its power under Section 482 Cr. P.C. even after the accused was found guilty and convicted by the trial court though the matter is sub judice before the appellate court?”

While dealing with question No.1, this Court in para 15 of the judgment has held as under:-

“The refusal to invoke power under Section 320 Cr. P.C., however, does not debar the High Court from resorting to its inherent power under Section 482 Cr. P.C. and pass an appropriate order so as to secure the ends of justice.”

While dealing with question No.2, this Court in paras 16, 17 and 21 of the judgment has held under:-

“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 (2)RCR (Criminal) 910, (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.

X-X-X-X-X-X

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 Cr. P.C. 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.”

Vide order dated 09.07.2015, Appellate Court was directed to record the statements of the parties and send its report with regard to genuineness of the compromise effected between the parties.

In pursuance to the said order, the Appellate Court after recording the statements of the parties has reported that the compromised effected between the parties was genuine, voluntarily and without any pressure.

Thus, this case is covered by the decision given by Division Bench of this Court in Sube Singh's case (supra). Accordingly, this petition is allowed. Impugned judgment dated 21.03.2014 of conviction and sentence passed by the Juvenile Justice Board are set aside. Consequently, the criminal proceedings against the petitioner on the basis of the FIR No.472 dated 06.09.2010, under Sections 147, 148, 323, 324, 326, 506, 427 IPC, registered at Police Station Assandh, District Karnal, are quashed. Resultantly, the appeal preferred by the petitioners before the Appellate Court would be rendered infructuous and shall be so declared by the Appellate Court at Karnal.

(SABINA)
JUDGE

November 04, 2015
mahavir