

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 1091 of 2015
DECIDED ON : April 23, 2015

Manoj Sharma

.....Petitioner.

versus

Raman Mahajan and another

.....Respondents.

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

1. Whether the Reporters of the Local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or? Yes
3. Whether the judgment should be reported in the digest? Yes

Present : Mr. Dinesh Mahajan, Advocate
for the petitioner.

Ms. Priyanka Sadar, AAG, Punjab.

Mr. Rimple Saini, Advocate
for respondent No.1/complainant.

JASPAL SINGH, J. (ORAL)

Instant revision petition has been preferred by Manoj Sharma feeling dissatisfied qua judgment and order of sentence dated March 13, 2015 passed by learned Additional Sessions Judge, Pathankot dismissing the appeal and upholding the judgment and order of sentence dated November 25, 2014 passed by learned Judicial Magistrate Ist Class, Pathankot whereby, he has been convicted under Section 138 of Negotiable Instruments Act (for short 'Act') and sentenced to undergo RI for a period of one year and to pay fine of ₹2000/- and in default of payment of fine to further

undergo RI for a period of one month.

2. In response to notice of motion issued by this Court, respondent No.1 appeared in person through Mr. Rimple Saini, Advocate whereas, respondent No.2-State of Punjab is being represented by Ms. Priyanka Sadar, AAG, Punjab.

3. Here it would be pertinent to mention that after the dismissal of appeal and passing of impugned judgment of conviction and order of sentence, parties arrived at a compromise with the intervention of respectables, which was reduced into writing as Annexure P-1. Respondent No.1/complainant is present in Court today, who has categorically admitted his signatures as well as signatures of Avinash Sharma, father of revisionist and Adesh Kumar, President, Pathankot Vikas Munch; besides Narinder Kumar (Kala), Municipal Corporator, Ward No.15, Pathankot on the compromise Annexure P-1. Apart from it, respondent No.1/complainant has also furnished a short reply by way of his affidavit reiterating the factum as well as terms and conditions of compromise Annexure P-1. This short reply has also been taken on record.

4. According to compromise Annexure P-1, as well as short reply, Raman Mahajan-respondent No.1/complainant has already received the amount in question and nothing remains due qua petitioner. Since the proceedings are under Section 138 of the Act the same are compoundable and the stage of trial/proceedings is immaterial.

5.

In **Kulwinder Singh and others v. State of Punjab and**

others, 2007 (3) RCR (Criminal) 1052 ; a Full Bench of this Court while relying upon ratio of law laid down in **Abasaheb Yadav Honmane v. State of Maharashtra; 2008 (3) All India Criminal Law Reporter 676**; had held that FIR including the judgment of conviction and order of sentence recorded by learned trial Court, and affirmed by appellate Court, can be quashed or set aside, on the basis of compromise if the fact and circumstances, of particular case, so warrant.

6. In **Kulwinder Singh's** case (supra), while approving the minority view in **Dharambir v. State of Haryana; 2005 (3) RCR (Criminal) 426**; a Full Bench of this Court observed as under:-

“27. To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself i.e. “to prevent abuse of the process of any Court” or “to secure the ends of justice”.

*28. In **Mrs. Shakuntala Sawheny v. Mrs. Kaushalya Sawheny and others (1980) 1 SCC 63**, Hon'ble Krishan Iyer, J. aptly summoned up the essence of compromise in the following words;*

“The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it. In exercise of

such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.

29. No embargo, be in the shape of Section 320(9) of the Criminal Procedure Code or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code.

30. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Criminal Procedure Code is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice”. Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Criminal Procedure Code in the event of compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

31. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code, which can affect the inherent powers of this Court under Section 482. Further, the same cannot be limited to matrimonial case alone and the Court has the wide power to quash the proceedings even if non-compoundable offences notwithstanding the bar under Section 320 of the Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

32. The power under Section 482 of the Criminal Procedure Code is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined parameters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Criminal Procedure Code has no limits. However the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The court is vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery”.

7. Adverting to the facts of the case in hand, parties to the lis have buried their hatchet though at revisional stage. Respondent No.1/complainant has no objection in case instant revision petition is accepted and judgment of conviction and order of sentence passed by both the courts below are set aside and Manoj Kumar is acquitted. The compromise arrived at between the parties would certainly create harmonious relationship in between the parties and would result into removal of bitterness or ill-will existing between the parties since long.

8. Similarly, no useful purpose would be served by

continuing the proceedings and to decide the matter between the parties on merits. Rather it would be nothing but an abuse of process of law as well as the wastage of time of the Court as well as the parties.

9. As an upshot of afore-said discussions, instant revision is allowed and judgment of conviction and order of sentence rendered by both the courts below are set aside.

April 23, 2015
sham

(JASPAL SINGH)
JUDGE