

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 1890 of 2015 (O&M)
DECIDED ON : MAY 29, 2015

TARUN KUMAR

.....PETITIONER

VERSUS

KAMAL KUMAR GHAI

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

Present : Mr. M.K. Bhatnagar, Advocate
for the petitioner.

Mr. S.K. Bawa, Advocate
for the respondent.

JASPAL SINGH, J. (ORAL)

CRM No. 17331 of 2015

In view of averments made in the application, the same is
allowed and delay in filing the instant revision petition is condoned.

CM stands disposed of.

CRM Nos. 17332 and 17333 of 2015

Applications are allowed, as prayed for.

Annexures P-1 and P-2 are taken on record, subject to all
just exceptions.

CRR No. 1890 of 2015 (O&M)

The instant petition has been preferred by Tarun Kumar , feeling dissatisfied against the judgement dated November 11, 2014 passed by learned Sessions Judge, Amritsar confirming the conviction under Section 138 of Negotiable Instruments Act vide judgment dated February 03, 2014 passed by learned Judicial Magistrate Ist Class, Amritsar.

2. During the pendency of present revision petition, parties have arrived at a compromise. Respondent-complainant has also placed on record compromise deed (Annexure P-1) as well as receipt (Annexure P-2) issued by respondent-complainant dated May 10, 2015 wherein, it has been categorically admitted that matter has been finally settled and that respondent-complainant has no objection, if the offence is allowed to be compounded and petitioner is acquitted of the charge.

3. After having elaborately heard learned counsel for the parties and perusal of record as well as the contents of compromise deed (Annexure P-1), this Court is satisfied that with the intervention of respectables, a compromise has been arrived at between the parties and after compromise, no dispute subsists between them. Further, petitioner was ordered to deposit 15% of cheque amount to Legal Services Authority vide order dated May 28, 2015, which has since been complied with by the petitioner vide its receipt dated May 28, 2015.

4. 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; has categorically 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.

5. 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”.

5. Adverting to the facts of the case in hand, parties to the lis have buried their hatchet though after conviction or at appellate stage. In case compromise is accepted and proceedings are quashed, it 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. The ratio of law emerging from above-referred cases and applying the same to the facts and circumstances of instant case, this Court is of the considered view that once a matter has been compromised by the parties, 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.

6. 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. Personal bonds and surety bonds furnished by petitioners shall stand discharged.

MAY 29, 2015
sham

(JASPAL SINGH)
JUDGE