

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

Criminal Revision No. 2069 of 2015(O&M)

Date of decision: December 04, 2015

Monni Singh @ Manni

.....Petitioner (s)

V/s

State of Punjab & another

.....Respondent(s)

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

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

Present:- Mr. Nitin Goyal, Advocate for
Mr. Sanjiv Gupta, Advocate for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. G.S. Nahel, Advocate for the
complainant-respondent no.2.

HARI PAL VERMA, J. (Oral)

Petitioner-Monni Singh @ Manni has filed the instant revision petition challenging the judgment dated 29.04.2015 passed by learned Addl. Sessions Judge, Sangrur, whereby the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 17.07.2014 passed by learned Sub-Divisional Judicial Magistrate, Sunam, was dismissed.

The learned trial Court, vide judgment dated 17.07.2014 convicted and sentenced the accused/petitioner as under:-

<i>Offence</i>	<i>Punishment</i>
Under Section 279 of IPC	To undergo rigorous imprisonment for a period of six months.
Under Section 337 of IPC	To undergo rigorous imprisonment for a period of six months.

Under Section 338 of IPC	To undergo rigorous imprisonment for a period of one year and nine months and to pay fine of Rs.1000/-. In default payment of fine to further undergo rigorous imprisonment for a period of 1 month and 21 days.
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All the sentences were, however, ordered to be run concurrently.

Briefly stated, facts of the case are that FIR was registered on the statement of complainant-Jasvir Singh recorded by HC Balvir Singh on 20.01.2010 wherein complainant stated that he was an agriculturist by profession and on 18.01.2010, he alongwith his mother Amarjit Kaur was heading on his motor-cycle, from village Gagarpur to Mehlan and at about 2:00 PM, when they reached near the brick kiln outside village Mehlan, a tractor with trailer, loaded of bricks, was coming from the side of village Mehlan and in an attempt to overtake the said tractor-trailer, a tempu/four wheeler bearing registration No. PB-11-S-9080 hit the trailer on the rear side and though he immediately got off the road, but despite that, the said tempu/four wheeler directly hit their motor-cycle due to which his mother Amarjit Kaur felled down and he himself came under the said tempu/four wheeler. The driver of the tempu/four wheeler fled away from the spot.

After completion of the investigation, challan was presented. Upon appearance of the accused, he was supplied with the copies of the police report and other documents appended therewith free of cost as envisaged u/s 207 CRPC. Finding a prima facie case, accused Monni Singh was charge sheeted for the offences punishable under Section 279/337/338 of IPC, to which, he pleaded not guilty and claimed trial.

In order to prove its case, prosecution examined Jasvir Singh as PW-1, his mother/injured Amarjit Kaur as PW2, eye witness Joginder Singh as PW-3, Dr. Navdeep Malhotra Senior Resident DMCH, Ludhiana as PW-7, IO HC Balvir Singh as PW-9, HC Mohinder Singh as PW-10, Dalvir Singh as PW-11, Jagpal Singh, Photographer as PW-4, Kuldeep Singh as PW-5, Sham Lal Senior Assistant as PW-6 and Nand Lal as PW-8. Statement of accused under section 313 of CRPC was recorded, putting to him the entire incriminating evidence, to which, he pleaded innocence and false implication. However, accused did not lead any evidence in defence.

After appraisal of evidence, the learned trial Court held the petitioner-accused guilty of offence under sections 279/337/338 of IPC and sentenced him as aforesaid vide judgment dated 17.07.2014. Against the judgment of conviction and order of sentence dated 17.07.2014, the petitioner-accused preferred an appeal before the learned Addl. Sessions Judge, Sangrur, however, said appeal was dismissed vide judgment dated 29.04.2015.

It is in the aforesaid circumstances, the petitioner-accused has filed the present revision petition.

On 31.08.2015, learned counsel for the petitioner has shown his inclination about the possibility of some compromise between the parties. Accordingly, matter was referred to the Mediation & Conciliation Centre of this Court, where parties were directed to appear on 16.09.2015.

Pursuant to the aforesaid order dated 31.08.2015, parties appeared before the Mediation & Conciliation Centre of this Court and

an amicable settlement has been arrived at between them by way of compromise/settlement deed dated 16.09.2015.

As per the terms and conditions of settlement arrived at between the parties before the Mediation & Conciliation Centre, the petitioner-accused has agreed to compensate the complainant-respondent No.2 to the tune of Rs.30,000/- in addition to whatever he has already been awarded by the MACT.

Learned counsel for the petitioner submits that the amount of Rs.30,000/- has already been paid by the petitioner on 07.10.2015 to the complainant-respondent No.2. He further submits that as against the awarded sentence of one year and nine months, the petitioner remained in custody for three and half months.

Learned counsel for the complainant-respondent No.2 also does not dispute the payment of Rs.30,000/- and the terms of settlement arrived at between the parties before Mediation & Conciliation Centre of this Court.

Learned counsel for the State, on instructions from Head Constable Narender Singh, does not dispute the custody of the petitioner.

Learned counsel for the petitioner relies upon a judgment of Hon'ble Apex Court in **Puttaswamy Vs. State of Karnatka and another, 2009(1) R.C.R. (Criminal) 501**, to contend that where offences are not compoundable but parties have entered into a compromise, sentence can be reduced to the period already undergone.

I have learned counsel for the parties and gone through the case file.

Hon'ble Apex Court in *Puttaswamy's case (supra)* has observed as under:-

“10. Accordingly, while maintaining the appellant's conviction under Sections 279 and 304-A Indian Penal Code, notwithstanding the agreement arrived at between the parties, we increase the amount of fine from Rs.2,000/- to Rs.20,000/- to be paid by the appellant to the parents of the deceased and reduce the sentence to the period already undergone, subject to payment of the fine. The aforesaid amount is to be deposited by the appellant in the Trial Court within three weeks from date, and on such deposit, the said amount shall be made over to the parents of the deceased and the appellant shall be released forthwith. In default of such deposit, this order shall remain in abeyance for a period of four weeks and if still no deposit is made within the said period the appeal will stand dismissed.”

A Division Bench judgment of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013(4) R.C.R. (Criminal) 102** has held that this court has power to compound the offences even at the appellate stage. In *Sube Singh's case (supra)* though the Additional Chief Judicial Magistrate has convicted the accused for offence under Section 420, 467, 468 read with Section 120B and appeal against the order of conviction was pending before the Sessions Court, it is during the pendency of the appeal before the Sessions Court, the matter was compromised between the parties. Further, this Court held that the High Court vested unparallel power to quash criminal proceedings at any stage to secure the ends of justice. Accordingly, the petition was allowed and the offences were compounded. This Court in *Sube Singh's case (supra)* has observed as under:-

*“(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Cr.P.C. 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) 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 Cr.P.C. 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 Cr.P.C. 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.”*

Taking into the consideration the law laid down in ***Puttaswamy's case (supra)*** as well as Division Bench judgment of this Court in ***Sube Singh's case (supra)***, coupled with the fact that the compromise has been arrived at between the parties and as against the

awarded sentence of one year and nine months, the petitioner remained in custody for a period of three and half months, I am of the considered opinion that ends of justice would be met, if the conviction of the petitioner is affirmed, however, sentence of the imprisonment is reduced to the period already undergone by him.

Accordingly, the conviction of the petitioner-Monni Singh @ Manni is upheld; however, his sentence is reduced to the period already undergone by him.

With the aforesaid modification in the quantum of sentence, the instant revision stands dismissed.

December 04, 2015
ANJAL

(HARI PAL VERMA)
JUDGE