

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

CRR-2213 of 2015 (O&M)

Date of decision: 08.10.2015

Balbir Singh

....Petitioner

v/s

State of Punjab and another

....Respondents

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. Rajbir Singh, Advocate for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Harbhajan Singh, Advocate for
respondent No.2-complainant.

HARI PAL VERMA, J.(Oral)

CRM-33036 of 2015

This is an application for placing on record the compromise deed and affidavit of complainant/injured dated 03.10.2015 as Annexure P-1 & P-2 respectively.

Application is allowed as prayed for. Documents Annexures P-1 and P-2 are taken on record.

CRR-2213 of 2015

Petitioner Balbir Singh son of Gurdial Singh resident of Safidon Mandi, District Jind has filed the present revision petition challenging the judgment dated 28.05.2015 passed by the learned

Sessions Judge, Sangrur, whereby the appeal filed by the petitioner against the judgment of conviction and order of sentence dated 18.12.2012 passed by the learned Chief Judicial Magistrate, Sangrur, in case FIR No. 22 dated 19.01.2008 under sections 279 and 338 of Indian Penal Code and section 181 of the Motor Vehicles Act, 1988, Police Station City Sangrur was dismissed.

The learned trial Court vide judgment dated 18.12.2012 had convicted and sentenced the petitioner as under:-

1.	<i>Under Section 279 IPC</i>	<i>Rigorous imprisonment for a period of six months and to pay fine of Rs.500/- and in default of payment of fine, to undergo further R.I. for seven days.</i>
2.	<i>Under Section 338 IPC</i>	<i>Rigorous imprisonment for a period of two years and to pay fine of Rs.1,000/- and in default of payment of fine, to undergo further R.I. for 15 days.</i>
3.	<i>Under Section 181 of MV Act</i>	<i>Rigorous imprisonment for a period of three months and to pay fine of Rs.200/- and in default of payment of fine, to undergo further R.I. for seven days.</i>

It was, however, ordered by the trial Court that all the sentences shall run concurrently.

The facts of the case in brief are that on 19.01.2008 at about 07.30 a.m. complainant-injured Sita Singh after his duty was going to village Banganwali on his bicycle. When he reached Ubhawal road near Sunami Gate, Sangrur was hit from behind by truck-trailer bearing registration no. HR-46-7026 (lateron corrected as HR-46G-1939) being driven at a fast speed and in a rash and negligent manner without blowing any horn, as a result whereof complainant alongwith his bicycle fell down on the road and received injuries on his right arm

from shoulder to fingers. His bicycle was also damaged. He was being followed by his son Zail Singh, who reached at the spot. After inquiry, he came to know that the tuck-trailer was being driven by its driver namely Balbir Singh. Injured was taken to Civil Hospital, Sangrur On the statement of complainant-injured Ex.PW7/B, FIR Ex. PW-7/D was registered against the accused.

On the basis of investigation, challan was presented against him in the Court. Copy of challan was supplied to the petitioner-accused free of costs as envisaged under Section 207 Cr.P.C. Since a prima-facie case was made out against the accused, he was charge-sheeted for commission of the offences under Section 279 and 338 of Indian Penal Code and 181 of Motor Vehicle Act, 1988, to which the accused pleaded not guilty and claimed trial.

In order to prove the charge against the accused-petitioner, prosecution examined PW1 Sita Singh, injured-complainant, PW2 Zail Singh, eye witness, PW3 Major Singh, PW4 Dr. Pritpal Singh, PW5 Head Constable Mithu Singh, Mechanic, PW6 Sandeep Kumar, clerk from the office of Regional Transport Authority, Kurukshetra, PW7 ASI Mukand Singh, investigating officer of the case and PW8 Gurpreet Singh, clerk from Rajindra Hospital, Patiala.

On closure of the evidence of the prosecution, statement of the accused under Section 313 of the Code of Criminal Procedure was recorded by putting the incriminating evidence to him, which he denied and pleaded innocence. However, no evidence in defence was led by the accused-petitioner.

Considering the evidence so adduced, the trial Court vide judgment and order dated 18.12.2012 had convicted the petitioner and sentenced him to undergo the sentence as mentioned above.

The petitioner had preferred an appeal against the said judgment of conviction and order of sentence dated 18.12.2012 before the learned Sessions Judge, Sangrur. However, learned Sessions Judge vide judgment dated 28.05.2015 dismissed the appeal. It is in these circumstances that the petitioner has filed the present revision petition challenging the verdict of the courts below.

Learned counsel for the petitioner contends that during the pendency of the present revision petition, a compromise has been effected with the complainant/injured on 03.10.2015. He placed on record the terms of settlement as entered into between the parties as well as an affidavit of the complainant dated 03.10.2015 as Annexures P-1 and P-2 respectively. He further submits that in view of the compromise dated 03.10.2015, the petitioner was required to pay an amount of Rs.30,000/- as full and final settlement to the complainant-injured, which he has already paid. Pursuant thereto, the complainant/injured- Sita Singh, has furnished an affidavit dated 03.10.2015 (Annexure P-2). The relevant para nos. 3 and 4 of the said affidavit reads as under:-

“3. That now with the intervention of respectable persons that the matter has been compromised. The deponent has no objection if the aforesaid Balbir Singh acquitted in the aforesaid FIR or his sentence reduced to already undergone or his aforesaid criminal revision is allowed by the Hon'ble High Court.

4. That the deponent has already got the compensation in M.A.C.T. claim case and now the deponent has received

an amount of Rs.30000/- from Gurdial Singh father of Balbir Singh as full and final settlement amount.”

Learned counsel for the complainant, on instructions from injured/complainant-Sita Singh, who is stated to be present in Court, does not dispute the factum of compromise and submits that he has no objection, in case the present revision petition is disposed of on the basis of compromise.

As per the custody certificate dated 24.08.2015, already brought on record by the Ld. State counsel, the petitioner, by now has undergone about 04 months and 10 days of imprisonment from out of the maximum imprisonment of 02 years awarded under Section 338 IPC.

Learned counsel for the petitioner has placed reliance upon 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** to contend that this court has power to compound the offences even at the appellate stage. In the case of *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.**”*

In view of the limited scope of interference in the revisional jurisdiction, learned counsel for the petitioner has not

challenged the conviction on merits and confined arguments only qua the quantum of sentence.

Taking into the consideration the fact that the incident is of the year 2008, compromise has been arrived at between the parties as well as the fact that as against the maximum awarded sentence of 02 years for the offence punishable under Section 338 IPC, the petitioner is in custody for the last about 04 months and 10 days and there being no other case against him, I am of the considered opinion, that ends of justice would be met, if the conviction of the petitioners is affirmed, however, sentence of the imprisonment is reduced to the period already undergone by him.

In view of the above, the conviction of the petitioner-Balbir Singh is upheld; however, his sentence is reduced to the period already undergone by him.

With the aforesaid modification in sentence, the revision petition shall stand disposed of.

October 08, 2015

ANJAL

**(HARI PAL VERMA)
JUDGE**