

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

**CRA No. S-207-SB of 2006 (O&M)
DECIDED ON : MAY 10, 2016**

JASKARAN SINGH AND OTHERS

.....APPELLANTS.

VERSUS

STATE OF HARYANA

.....RESPONDENT

CORAM : HON'BLE MR. JUSTICE JASPAL SINGH

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

Present : Mr. P.S. Brar, Advocate
for the appellants.

Mr. A.S. Kler, DAG, Punjab.

Mr. Gobind Sharma, Advocate
for respondents No.2, 3 and 5.

JASPAL SINGH, J. (ORAL)

CRM No. 3328 of 2016

In view of averments made in the application, the same is
allowed.

Let the main appeal be listed for today for final hearing.

CRA No. S-207-SB of 2016

Main appeal is taken up for hearing today.

Challenge in this appeal is to the judgment of conviction and order of sentence dated January 23, 2006 passed by learned Additional Sessions Judge, Sirsa, in case bearing FIR No. 292 dated October 31, 2000, under Sections 323, 324, 325, 148 and 149 IPC registered at Police Station Rania whereby, the appellants were convicted and sentenced as under:

Under Section	Sentence awarded	Fine imposed	In default of payment of fine
324/149 IPC	RI for 03 years		
325/149 IPC	RI for 05 years &	₹10,000/-	RI for 03 months
323/149 IPC	RI for 01 year		

3. During the pendency of appeal, appellants filed an application under Section 482 Cr.P.C. with the plea that the parties to appeal have entered into an amicable settlement.

4. Accordingly, vide order dated March 15, 2016, parties were directed to appear before learned trial Court to get their statements recorded with regard to compromise and the court was directed to opine regarding the validity, genuineness or otherwise of compromise and to send the report, to this Court in this regard.

5. Report of learned trial Court has been received, in which, it has been mentioned that with the intervention of panchayat, a compromise has been effected between the parties, voluntarily and without any pressure or coercion and the same appears to be genuine.

6. Learned counsel for the parties have stated at the bar that the matter involved is personal in nature, which has been amicably put at rest.

7. At this juncture Mr. A.S. Kler, Deputy Advocate General representing the respondent-State of Punjab, on the basis of report of learned trial Court has submitted that although, parties have genuinely patched up the matter and have sunk their differences or ill-will, yet one offence under which appellants have been convicted and sentenced i.e. Section 148 IPC is non-compoundable whereas offence falling within purview of Section 325 IPC is compoundable with the permission of Court.

8. After having elaborately heard learned counsel for the parties and perusal of record as well as report submitted by learned trial Court in respect of compromise, 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 the parties.

9. Now, the question which arises for consideration is whether inherent powers under Section 482 Cr.P.C. can be invoked, to set aside the judgment of conviction and order of sentence relating to non-compoundable offences, if the parties have entered into a genuine compromise by way of amicable settlement of their dispute and the answer to this question is in affirmative.

10. 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.

11. 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 extraordinary 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”.

12. Adverting to the facts of the case in hand, parties to the lis have buried their hatchet though at a penultimate stage i.e. 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.

13. As an upshot of afore-said discussions, instant appeal is allowed and judgment of conviction and order of sentence rendered by learned trial Court are set aside. Personal bonds and surety bonds furnished by appellants shall stand discharged.

MAY 10, 2016
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(JASPAL SINGH)
JUDGE