

Date of Decision: *February 16, 2016*

1. Criminal Appeal No.S-243-SB of 2010 (O & M)

Chatter Singh & others

..... APPELLANTS

VERSUS

State of Haryana

..... RESPONDENT

. . . .

2. Criminal Appeal No.S-370-SB of 2010 (O & M)

Mahabir & others

..... APPELLANTS

VERSUS

State of Haryana

..... RESPONDENT

. . . .

CORAM HON'BLE MR. JUSTICE JASPAL SINGH

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

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PRESENT: Mr. Devinder Singh, Advocate, for the appellants in Crl. Appeal No.S-243-SB of 2010.

Mr. R.S. Ghuman, Advocate, for the appellants in Crl. Appeal No.S-370-SB of 2010.

Mr. Tanuj Sharma, Assistant Advocate General,
Haryana.

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Jaspal Singh, J

1. This judgment shall dispose of aforementioned two criminal appeals, as they common questions of law & facts and have arisen out of the same FIR and cross version.

2. Challenge in these appeals is to the judgments of conviction dated January 13, 2010 and orders of sentence dated January 14, 2010 passed in FIR No.201 dated September 30, 2008, under Sections 148, 323, 324, 325, 506 and Section 149 IPC, Police Station, Sadar Narwana, District Jind, as well as in cross version case registered in the aforesaid FIR.

3. Vide aforesaid judgments, appellants in Criminal Appeal No.S-243-SB of 2010 have been sentenced to undergo RI of one year under Section 148 read with Section 149 IPC; RI for six months under Section 323 read with Section 149 IPC; RI for one year under Section 324 read with Section 149 IPC; RI for two years alongwith fine to the tune of ₹ 1,000/- each under Section 325 read with Section 149 IPC and in default of payment of fine, to further undergo RI for two months; RI for one year under Section 506 IPC.

4. Vide aforesaid judgments, appellants in Criminal Appeal No.S-370-SB of 2010 have been sentenced to undergo RI of one year under Section 148 read with Section 149 IPC; RI for six months under Section 323 read with Section 149 IPC; RI for three years alongwith fine to the tune of ₹ 1,000/- each under Section 326 IPC read with Section 149 IPC and in default of payment of fine, to further under RI for three months; RI for one year under Section 506 IPC.

5. Briefly stated, the instant cases have been registered on the basis of statements of Mahabir Singh son of Duna Ram and Chatter Singh. A scuffle took place between the accused party and complainant party on September 30, 2008, regarding which the instant FIR was registered at Police Station, Sadar Narwana. After completion of investigation, challan was presented in the court. The case was committed to the court of Sessions being cross-case of FIR No.201 dated September 9, 2008, under Sections 148, 323, 506, 307 IPC read with Section 149 IPC. The accused were chargesheeted for the commission of offence under Sections 148, 323, 324, 325 IPC read with Section 149 IPC and Section 506 IPC vide order dated April 17, 2009, to which, they pleaded not guilty and claimed trial.

6. In order to prove its case, prosecution led its evidence and examined six witnesses. After closure of prosecution evidence, incriminating circumstances appearing against the accused were put to them in statement under Section 313 Cr.P.C. in which they pleaded their innocence and false implication. No witness in defence was examined.

7. After hearing learned counsel for the parties and on appraisal of evidence, accused were convicted and sentenced vide judgment of conviction dated January 13, 2010 and orders of sentence dated January 14, 2010, as detailed above.

8. Through the instant appeals, the accused – appellants have challenged the aforesaid judgment of conviction and order of sentence.

9. During pendency of the appeals, appellants also filed applications under Section 482 Cr.P.C. with the plea that parties have entered into a settlement and in that regard, they relied upon compromise deed dated December 14, 2015 (Annexure A-1) and affidavits dated December 17, 2015 (Annexure A-2), attached with the applications.

10. A perusal of order dated December 17, 2015 passed by Daily Lok Adalat also reveals that the parties have entered into a settlement/compromise dated December 14, 2015 (Annexure A-1) and their statements to this effect have also been recorded. All the accused – appellants have made a joint statement to the effect that with the intervention of respectables of the village that once for all there should be peace between the parties, they have entered into an amicable settlement by way of written compromise dated December 14, 2015, duly signed by Sarpanch and Lambardar of the village.

11. 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.

12. At this juncture, learned counsel for the respondent-State, has submitted that although, parties have genuinely patched up the matter and have sunk their differences or ill-will, yet offences under Sections 148 and 326 IPC are non-compoundable whereas offence falling within purview of Section 325 IPC is compoundable with the permission of Court.

13. After having elaborately heard learned counsel for the parties and perusal of record as well as report submitted by learned Lok Adalat in respect of compromise (Annexure A-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 the parties.

14. Now, the question which arises for consideration is whether inherent powers under Section 482 Cr.P.C. can be invoked, to decide the fate of 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.

15. 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.

16. 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 everlasting 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”.

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

18. As an upshot of afore-said discussions, Criminal Appeal No.S-243-SB of 2010 and Criminal Appeal No.S-370-SB of 2010 are allowed and impugned judgment(s) of conviction and order(s) of sentence rendered by learned trial Court are set aside. Personal bonds and surety bonds furnished by appellant(s) shall stand discharged.

February 16, 2016
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(Jaspal Singh)
Judge