

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

Criminal Misc. No. M-10977 of 2014

Date of Decision:-17.3.2016

Naseeb Chand and others

...Petitioners

Versus

State of Punjab and others

...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. Parshant Vashisth, Advocate
for the petitioners.

Mr. Sultan Singh Gill, Deputy A.G., Punjab.

None for respondents No.2 to 5.

HARI PAL VERMA J.(Oral)

Prayer in the present petition is for quashing of FIR No.125 dated 26.8.2004, under Sections 323, 324, 148 and 149 IPC, registered at Police Station Sadar Phagwara, District Kapurthala (Annexure P-1) along with all consequential proceedings arising therefrom on the basis of compromise dated 11.3.2013 (Annexure P-3).

Vide order dated 23.2.2015, this Court had directed

the parties to appear before the lower Appellate Court to get their statements recorded and the learned Magistrate was directed to forward a report about the genuineness of the compromise to this Court.

In compliance of the order dated 23.2.2015, the parties have appeared before the lower Appellate Court on 24.3.2015 for getting their statements recorded.

The report dated 15.4.2015 received from the learned Additional Sessions Judge, Kapurthala, reveals that the compromise has been effected between the parties without any undue pressure.

The joint statement made by Harpreet @ Sethi and Amritvir Singh @ Nannu, complainant before the Additional Sessions Judge, Kapurthala, on 24.3.2015 reads as under :-

“Stated that an FIR No.125 dated 25.8.2004 under Sections 323/324/148/149 IPC was got registered on the statement of Amritvir Singh. Now stated that we have compromised the matter with accused party i.e. Naseeb Chand, Gurmeet Kaur, Raj Kumar, Surinder, Joginder Singh and Balwinder Singh with our free will and without any undue influence or coercion. We have seen the copy of compromise dated 13.3.2013 which was executed between us and which is correct. We have no objection if the quashing petition be allowed under Section 482 Cr.P.C.”

Learned State counsel does not dispute the aforesaid

factual position, rather admit the factum of compromise effected between the parties.

Heard.

This Court in the case of ***Sube Singh and another Versus State of Haryana and another 2013(4) RCR (Criminal) 102*** has considered the compounding of offences at the appellate stage and has observed that even when appeal against the conviction is pending before the Sessions Court and parties entered into a compromise, the High Court is vested unparallel power under Section 482 Cr.PC to quash criminal proceedings at any stage so as to secure the ends of justice and has observed as under:

“15. The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 Criminal Procedure Code and pass an appropriate order so as to secure the ends of justice.

*16. As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code 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. v. State of Madhya Pradesh & Anr., 2008(2) R.C.R. (Criminal) 910 : (2008)5 SCC 794**, the unfortunate*

matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498A Indian Penal Code 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 Criminal Procedure Code 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 Criminal Procedure Code 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.

18. xxx xxx

19. xxx xxx

20. xxx xxx

21. In the light of these peculiar facts and

circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.

22. Consequently and for the reasons afore-stated, we allow this petition and set aside the judgement and order dated 16.03.2009 passed in Criminal Case No. 425-1 of 2000 of Additional Chief Judicial Magistrate, Hisar, on the basis of compromise dated 08.08.2011 arrived at between them and their step-mother respondent No.2 (Smt. Reshma Devi) w/o late Rajmal qua the petitioners only. As a necessary corollary, the criminal complaint filed by respondent No.2 is dismissed qua the petitioners on the basis of above-stated compromise. Resultantly, the appeal preferred by the petitioners against the above-mentioned order dated 16.03.2009 would be rendered infructuous

and shall be so declared by the first Appellate Court at Hisar.”

*Similarly, in the case of **Baghel Singh Versus State of Punjab 2014(3) RCR (Criminal) 578** whereby the accused was convicted under Section 326 IPC and was sentenced to undergo rigorous imprisonment for two years, the parties entered into compromise during the pendency of the appeal. This Court while relying upon the judgment of **Lal Chand Versus State of Haryana, 2009 (5) RCR (Criminal) 838** and **Chhota Singh Versus State of Punjab 1997(2) RCR (Criminal) 392** allowed the compounding of offence in respect of offence under Section 326 IPC at the appellate stage with the observation that it will be a starting point in maintaining peace between the parties, such offence can be compounded.*

In view of the above, when the matter has been compromised between the parties with the intervention of respectables, no useful purpose would be served to continue with the proceedings before the Appellate Court.

Therefore, while relying upon the aforesaid judgments and coupled with the fact that the parties have entered into a compromise and learned Additional Sessions Judge, Kapurthala has submitted his report in support of genuineness of the compromise, the present petition is allowed and the FIR No.125

dated 26.8.2004, under Sections 323, 324, 148 and 149 IPC, registered at Police Station Sadar Phagwara, District Kapurthala and the consequential proceedings arising therefrom are hereby quashed qua petitioners.

Consequently, the impugned judgment of conviction and order of sentence dated 15.9.2011 passed by the learned Judicial Magistrate 1st Class, Phagwara, are set aside. The appeal preferred by the petitioners against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first Appellate Court.

The petition stands disposed of.

March 17, 2016
Vijay Asija

(**HARI PAL VERMA**)
JUDGE