

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

Criminal Misc. No. M-1591 of 2016
Date of Decision:-27.05.2016

Amritpal Singh

...Petitioner

Versus

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. Vikram Bali, Advocate for the petitioner.

Mr. Sultan Singh Gill, DAG, Punjab.

Mr. Vikas Gupta, Advocate for
Mr. Sunil Narang, Advocate for
respondents No. 2 to 4.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.66, dated 14.08.2011, under Sections 279/304-A, IPC, registered at Police Station Behram, District Shaheed Bhagat Singh Nagar (Annexure P-1), and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence dated 20.01.2015 passed by the trial Court, whereby the accused-petitioner was convicted for the offence punishable under Sections 279/304-A IPC, on the basis of compromise dated 01.01.2015(Annexures P-2 Colly).

Briefly stated, on 14.08.2011 PW-1 Mukesh Kumar has made a statement to the effect that at about 2:45 p.m. he and his brother, deceased-Yogesh Kumar, after meeting their in-laws started for their village Harjiana. The deceased was on his Honda Activa bearing no.PB-37-F-9612 (the scooter) and PW1 Mukesh Kumar was riding behind him on his motor cycle bearing no.PB-24-5807. When they arrived from Noorpur at a turn on the Noorpur-Chak Bilgan road, a mini bus bearing no.PB-32F-9197(the bus) coming from Chak Bilgan i.e. the opposite direction being driven by the accused at a high speed made a sharp turn. Seeing this, the deceased took down the scooter on the *kacha* portion of his side of the road. However, the driver of the bus brought the bus towards the wrong side i.e. deceased's side of the road and hit the deceased on the right part of the scooter. As a result of this collusion, the deceased fell down and tyres of the bus ran over his head resulting in his death at the spot. PW1 Mukesh Kumar attributed the cause of accident and death of the deceased to rash and negligent driving of the bus by coming onto the wrong side of the road. The bus driver came at the scene and disclosed his name as Amritpal Singh(accused-petitioner), but later fled the spot.

On the basis of statement of PW-1 Mukesh Kumar, FIR was registered, investigation carried out and upon the completion of investigation challan was presented in the Court.

Upon finding a prima facie case offence punishable under Sections 279/304A IPC charges were framed against the accused to which he pleaded not guilty and claimed trial.

The trial Court, vide its judgement and order of sentence dated 20.01.2015 was held the accused-petitioner guilty for the offence punishable under Sections 279/304-A IPC and was sentenced as under:-

<i>Name of convict</i>	<i>Under Section</i>	<i>Sentence</i>
Amritpal Singh	279 IPC	Rigorous imprisonment for a terms of 06 months
	304A IPC	Rigorous imprisonment for a terms of 02 years

Both the substantive sentences were ordered to be run concurrently.

Against the said judgment of conviction and order of sentence dated 20.01.2015, the appeal is pending before the learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar. Quashing of the aforesaid FIR and setting aside of the impugned judgment of conviction and order of sentence dated 20.01.2015 passed by the learned learned Judicial Magistrate Ist Class, Shaheed Bhagat Singh Nagar, is sought on the basis of compromise dated 01.01.2015(Annexures P-2 Colly) entered into between the parties during pendency of the appeal before the learned appellate Court.

This Court, vide order dated January 15, 2016, while issuing notice of motion in the case, has directed the parties to appear before the learned Appellate Court to get their statements recorded with regard to the compromise and learned Appellate Court was directed to submits a report regarding genuineness of the compromise.

Pursuant to the aforesaid order dated January 15, 2016, the learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar, had recorded the statements of the parties and forwarded his report dated 04.04.2016 to the effect that the parties have willingly settled their differences and reached at a bona fide compromise without any pressure and the same is genuine.

On the basis of the statements of the parties and the report dated 04.04.2016 submitted by learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar, it is established that accused-petitioner, namely, Amritpal Singh has compromised the matter with the complainant-respondent No.2-Mukesh Kumar, as well as the legal heirs of the deceased-Yogesh Kumar.

Learned counsel for the petitioner contends that respondents have been suitably compensated by the Motor Accident Claims Tribunal moreover, additional amount has also been paid to the legal heirs of deceased-Yogesh Kumar over and above the MACT award.

Learned counsel appearing for the respondents No. 2 to 4 does not dispute the fact that MACT award has been passed in favour of legal heirs of deceased and that the accused-petitioner has suitably compensated them over and above the MACT award. He has fairly conceded that the compromise arrived at between the parties is genuine and without any pressure or coercion.

Learned State counsel has also not disputed the factum of compromise entered into between the parties.

I have heard learned counsel for the parties.

The statement made by respondent No.2/complainant, namely, Mukesh Kumar son of Meet Ram before learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar on 06.02.2016, reads as under:-

“That the FIR No.66 dated 14.08.2011 u/s. 279, 304A IPC PS Behram which was registered against Amritpal Singh son of Sh. Mohan Singh on my complaint.

I have compromised the matter with Amritpal Singh without any force pressure and influence and I identify my signature on the compromise Ex.A-1. I have no objection if the accused/appellant be acquitted and the conviction be set aside.”

Apart from the above statement made by complainant/respondent No.2, respondents No. 3 and 4 have also made similar statements in support of the compromise before the Appellate Court whereby they have shown no objection to the FIR being quashed.

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.

Accordingly, while relying upon the aforesaid judgments and coupled with the fact that the parties have entered into a compromise and learned Additional Sessions Judge, Shaheed Bhagat Singh Nagar, has submitted his report in support of genuineness of the compromise, the present petition is allowed and FIR No.66, dated 14.08.2011, under Sections 279/304-A, IPC, registered at Police Station Behram, District Shaheed Bhagat Singh Nagar (Annexure P-1), and all other subsequent proceedings arising therefrom, are quashed, qua the accused-petitioner, on the basis of compromise dated 01.01.2015 (Annexures P-2 Colly).

Consequently, the judgment of conviction and order of sentence dated 20.01.2015 passed by learned learned Judicial Magistrate

Ist Class, Shaheed Bhagat Singh Nagar, are set aside.

The appeal preferred by the accused-petitioner against the aforesaid judgment and order of sentence is rendered infructuous and shall be declared so by the first Appellate Court.

27.05.2016
Anjal

(*HARI PAL VERMA*)
JUDGE