

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

Criminal Misc. No. M-17272-2015

Date of Decision:-28.01.2016

Ram Parkash 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. Manbir Singh Baath, Advocate for the petitioners.

Mr. P.S. Madahar, AAG, Punjab.

Mr. Nitish Garg, Advocate for
Mr. Charanpreet Singh, Advocate for
respondents No. 2 to 6.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC(subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar, on the basis of compromise dated 06.02.2015(Annexure P-4) and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, whereby the accused-petitioners, were convicted and sentenced as under:-

<i>Accused</i>	<i>Offence U/s.</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default R.I.</i>
<i>Ram Parkash</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>
<i>Joga Singh</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>
<i>Manjit Kaur</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324/149 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>
<i>Satwinder Kaur</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324 /149 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>
<i>Mohinder Kaur</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324 /149 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>
<i>Ranjit Singh</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324 /149 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>
<i>Charanjit Singh</i>	<i>148 IPC</i>	<i>3 years</i>	<i>---</i>	<i>---</i>
	<i>452 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>1 month</i>
	<i>323/149 IPC</i>	<i>1 year</i>	<i>---</i>	<i>---</i>
	<i>324 /149 IPC</i>	<i>3 years</i>	<i>Rs.5,000</i>	<i>1 month</i>

However, all the substantive sentences were ordered to run concurrently.

Quashing of the aforesaid FIR and setting aside of the impugned judgment and order of sentence dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, is sought on the basis of compromise dated 06.02.2015 (Annexure P-4), entered into between the parties during the pendency of the appeal before this Court.

Vide order dated May 25, 2015 passed by this Court, the parties were directed to appear before the trial Court on 24.07.2015 for recording their statements with regard to compromise and the trial Court was directed to submit its report regarding the genuineness of the compromise.

Pursuant to the aforesaid order dated May 25, 2015, the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, had recorded the statements of the parties and forwarded her report dated 06.08.2015 to the effect that the statements of respondent No.2-complainant, namely Malkiat Ram as well as other injured persons i.e respondents No. 3 to 6 and accused persons reveal that the compromise between them is voluntarily and without any undue influence.

On the basis of the statements of the parties and the report submitted by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, it is established that respondent No.2-complainant as well as other injured persons i.e respondents No. 3 to 6 have genuinely entered into a compromise with the accused-petitioners.

Learned counsel appearing for the respondent Nos. 2 to 6 has also fairly conceded the factum of compromise entered into

between the parties. He has submitted that the compromise between the parties is genuine and without any pressure or coercion.

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

I have heard learned counsel for the parties.

The statement of respondent No.2-complainant, namely, Malkiat Ram son of Batna Ram resident of village Mirpur Jattan, Tehsil and Distt. SBS Nagar for himself and as attorney of Satish Kumar son of Malkiat Ram resident of village Mirpur Jattan, Tehsil and Distt. SBS Nagar recorded by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar on 24.07.2015, is reproduced as under:

“We have effected compromise with the accused and I am also attorney of my son Satish Kumar, the copy of compromise is mark A and attorney is mark B(original seen and returned).The present compromise is with Ram Parkash and others with our own desire and free will and it has been effected without any threat or pressure.

RO & AC

Sd/- Malkiat Ram

Sd/-

(Neelam Arora)

ASJ/SBS Nagar/24.07.2015.”

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 Addl. Sessions Judge, Shaheed Bhagat Singh Nagar has submitted her report in support of genuineness of the compromise, the present petition is allowed. Accordingly, FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC(subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar and all subsequent proceedings arising therefrom, qua the accused-petitioners, are quashed, on the basis of compromise dated 06.02.2015 (Annexure P-4), subject to payment of costs of Rs.25,000/-, to be deposited

with the Punjab State Legal Services Authority, Chandigarh.

Consequently, the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, are set aside subject to payment of cost.

28.01.2016

Anjal

(*HARI PAL VERMA*)
JUDGE