

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

**Criminal Misc. No. M-2055 of 2016
Date of Decision:-07.04.2016**

Bhushan Kumar

...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. Dinesh Kumar, Advocate
for the petitioner.

Mr. R.S. Nain, Assistant A.G., Punjab.

Ms. Nikita Bangar, Advocate for
Mr. Amarjit Singh Virk, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

Prayer in the present petition is for quashing of FIR No.90 dated 15.12.2006, under Sections 420, 201 and 120-B IPC, registered at Police Station City Sangrur, District Sangrur (Annexure P-1), on the basis of compromise dated 28.12.2015 (Annexure P-4) alongwith all consequential proceedings arising therefrom including the judgment/order of conviction/sentence

dated 7.11.2013 (Annexure P-2) passed by learned Judicial Magistrate 1st Class, Sangrur, whereby the petitioner Bhushan Kumar has been convicted and sentenced as under :-

<i>U/Sec.</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default S.I.</i>
477 IPC	3 year	Rs.2000/-	One month

Quashing of the aforesaid FIR and setting aside of the impugned judgment of conviction and order of sentence dated 07.11.2013 passed by learned trial Court is sought on the basis of compromise dated 28.12.2015 as entered between the parties during the pendency of the appeal before the learned Appellate Court, Sangrur.

Vide order dated 3.3.2016, this Court has directed the parties to appear before the learned Illaqa Magistrate 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 3.3.2016, the parties have appeared before the learned Chief Judicial Magistrate, Sangrur on 18.3.2016 for getting their statements recorded.

The report dated 19.3.2016 received from the learned Chief Judicial Magistrate, Sangrur, reveals that the compromise has been effected between the parties without any undue pressure.

The statement made by complainant Sandeep Kumar

before the learned CJM, Sangrur, on 18.3.2016 reads as under :-

“I have got registered F.I.R. No.90 dated 15.12.2006, under Sections 420, 201, 120-B and 477 IPC, Police Station City, Sangrur against accused Bhushan Kumar and Raj Kumar. However, during trial, accused Raj Kumar died and proceedings against him were abated. Accused Bhushan Singh was convicted by the Court on 7.11.2013 under Section 477 IPC and appeal against the said judgment is pending for 21.4.2016. I have compromised the matter voluntarily with accused Bhushan Kumar without any threat, coercion or undue influence. However, the compromise effected in the present F.I.R. Shall have no effect on the civil suit titled as 'Sandeep Kumar versus Raj Kumar' filed for specific performance on the basis of agreement to sell dated 14.5.2005 which is pending in the Court of learned Additional Civil Judge (Sr. Divn.), Sangrur. I have no objection if the F.I.R. In question is quashed against accused Bhushan Kumar.”

Learned counsel appearing for respondent No.2-complainant has also fairly conceded the factum of compromise entered into between the parties. She has submitted that the compromise effected between the parties is genuine and without any pressure or coercion.

Learned State counsel does not dispute the aforesaid factual position, rather admits 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 unparalleled 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 Chief Judicial Magistrate, Sangrur has submitted her report in support of genuineness of the compromise, the present petition is allowed and the FIR No.90 dated 15.12.2006, under Sections 420, 201 and 120-B IPC,

registered at Police Station City Sangrur, District Sangrur and all subsequent proceedings arising therefrom is quashed, on the basis of compromise dated 28.12.2015 (Annexure P-4).

Consequently, the impugned judgment of conviction and order of sentence dated 07.11.2013 passed by the learned Judicial Magistrate 1st Class, Sangrur, are set aside. The appeal preferred by the petitioner against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first Appellate Court.

The petition is disposed of.

April 07, 2016
Vijay Asija

(**HARI PAL VERMA**)
JUDGE