

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

Criminal Misc. No. M-26579 of 2012

Date of Decision:-10.02.2016

Vinay Kumar

...Petitioner

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. Gaurav Singla, Advocate for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

Mr. Vaneet Garg, Advocate for
Mr. Sumit Puri, Advocate for
respondents No. 2 & 3.

HARI PAL VERMA J.(Oral)

Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.17, dated 21.05.2010, under Sections 304-A, 279, 337, 338 and 427 IPC, registered at Police Station Cheema, District-Sunam, and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence dated 12.11.2014 passed by the trial Court, whereby the accused-petitioner was convicted, on the basis of compromise and affidavits dated 07.08.2012(Annexures P-2 to P-4).

Against the said judgment of conviction and order of sentence dated 12.11.2014, the appeal is pending before the

learned Addl. Sessions Judge, Sangrur. Quashing of the aforesaid FIR and setting aside of the impugned judgment of conviction and order of sentence dated 12.11.2014 passed by the learned trial Court is sought on the basis of compromise and affidavits dated 07.08.2012(Annexures P-2 to P-4), entered into between the parties during pendency of the appeal before the learned appellate Court.

Vide order dated January 13, 2016 passed by this Court, the parties were directed to appear before the Appellate Court on for recording their respective statements with regard to compromise and the Appellate Court was directed to submit its report regarding the genuineness of the compromise.

Pursuant to the aforesaid order dated January 13, 2016, the learned Sessions Judge, Sangrur, had recorded the statements of the parties and forwarded his report dated 29.01.2016 to the effect that respondent No.2-complainant, namely Bahadur Singh as well as respondent No.3-injured, namely, Sukhdev Singh have appeared in the Court and made statements to the effect that with the intervention of the respectables, they have compromised the matter with the accused and the compromise arrived at 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 Sessions Judge, Sangrur, it is established that respondent No.2-complainant, namely Bahadur Singh as well as respondent No.3-injured, namely, Sukhdev Singh have genuinely entered into a compromise with the accused-petitioner.

Learned counsel appearing for the respondent Nos. 2 and 3 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 made by respondent No.2-complainant, namely, Bahadur Singh son of Gurbax Singh before the learned Sessions Judge, Sangur on 28.01.2016, reads as under:-

“Today, my summons have been served for today in this case. FIR of the accident in question was recorded on the basis of my statement. In the accident, my uncle Sukhdev Singh and his minor son Ravinder Singh and his wife Paramjit Kaur received injuries and Paramjit Kaur succumbed to injuries received in the accident. In this case with the intervention of respectables, we have compromised the matter with accused Vinay Kumar and the compromise has been reduced into writing, original of which has been produced before the Hon'ble High Court of Punjab and Haryana in quashment proceedings. We has signed the compromise in token of its correctness. The compromise has been arrived at by us with our free will and consent without there being any threat, promise or inducement, coercion of any kind. We have compromised the matter as we want to live in peace and harmony. The compromise is for the benefit of both the parties and it will end hostility between us. Now I do not have any ill will against accused Vinay Kumar and do not have any objection if criminal proceedings pending against him are dropped.

RO & AC
Sd/- Bahadur Singh

Sd/-
(Balbir Singh)
Sessions Judge, Sangrur
28.01.2016”

Similarly, the statement of respondent No.3-Injured, namely, Sukhdev Singh son of Gurmukh Singh made before the learned Sessions Judge, Sangur on 28.01.2016, reads as under:-

“Today, my summons have been served for today in this case. In the accident in question, I received injuries and besides my wife, Paramjit Kaur received injuries, she however succumbed to injuries. My son Ravinder Singh also sustained injuries in the accident, who is still about nine years of age and is residing with me. In this case with the intervention of respectables, we have compromised the matter with accused Vinay Kumar and the compromise has been reduced into writing, original of which has been produced before the Hon'ble High Court of Punjab and Haryana in quashment proceedings. We had signed the compromise in token of its correctness. The compromise has been arrived at by us with our free will and consent without there being any threat, promise or inducement, coercion of any kind. We have compromised the matter as we want to live in peace and harmony. The compromise is for the benefit of both the parties and it will end hostility between us. Now I do not have any ill will against accused Vinay Kumar and do not have any objection if criminal proceedings pending against him are dropped.

RO & AC
Sd/- Sukhdev Singh

Sd/-
(Balbir Singh)
Sessions Judge, Sangrur
28.01.2016”

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 Sessions Judge, Sangrur has submitted his report in support of genuineness of the compromise, the present petition is allowed and FIR No.17, dated 21.05.2010, under Sections 304-A, 279, 337, 338 and 427 IPC, registered at

Police Station Cheema, District-Sunam, and all subsequent proceedings arising therefrom, qua the accused-petitioner, are quashed, on the basis of compromise and affidavits dated 07.08.2012(Annexures P-2 to P-4).

Consequently, the judgment of conviction and order of sentence dated 12.11.2014 passed by the trial Court, are set aside. The appeal preferred by the accused-petitioner against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first Appellate Court.

10.02.2016
Anjal

(HARI PAL VERMA)
JUDGE