

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

Criminal Misc. No. M-29347 of 2014

Date of Decision:-25.02.2016

Inderjit Singh @ Nikka

...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. Arun Takhi, Advocate for the petitioner.

Mr. Gurinderjit Singh, DAG, Punjab.

None 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 FIR No.244, dated 29.10.2008, under Sections 279 and 304-A IPC, registered at Police Station Sadar, District-Hoshiarpur, and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence dated 23.04.2014 (Annexure P-1) passed by learned Addl. Chief Judicial Magistrate, Hoshiarpur, whereby the accused-petitioner was convicted and sentenced, on the basis of compromise dated 23.08.2014(Annexure P-2).

Against the said judgment of conviction and order of sentence dated 23.04.2014, the appeal is pending before the learned Sessions Judge, Hoshiarpur.

Quashing of the aforesaid FIR and setting aside of the impugned judgment of conviction and order of sentence dated 23.04.2014 passed by the learned trial Court is sought on the basis of compromise dated 23.08.2014 entered into between the parties during pendency of the appeal before the learned Appellate Court.

Vide order dated March 23, 2015 passed by this Court, the parties were directed to appear before the Appellate Court on 21.04.2015, 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 March 23, 2015, the learned Sessions Judge, Sangrur, had recorded the statements of the parties and forwarded his report dated 22.04.2015 to the effect that all the legal heirs of deceased Harbhajan Singh have effected compromise with the appellant-Inderjit Singh @ Nikka. It further stated that legal heirs of Harbhajan Singh (since deceased) have made statements with their own free will, consent and without any threat, promise or inducement.

On the basis of the statements of the parties and the report submitted by the learned Sessions Judge, Hoshiarpur, it is established that all the legal heirs of Harbhajan Singh (since deceased) have genuinely entered into a compromise with the accused-petitioner.

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

Though, today, no one is present on behalf of

respondents no.2 to 6, but no prejudice would be caused to them, as they have already made statements before the learned Sessions Judge, Hoshiarpur in respect of compromise.

I have heard learned counsel for the parties.

The statement made by respondent No.2, namely, Karamjit Kaur aged about 52 years widow of late Shri Harbhajan Singh, before the learned Sessions Judge, Hoshiarpur on 21.04.2015, reads as under:-

“I am widow of deceased Harbhajan Singh. A compromise has been effected with the accused Inderjit Singh in this case voluntarily. We do not want to proceed with this case.”

Similarly, the statements of other legal heirs of deceased-Harbhajan Singh have been recorded in support of the compromise before the learned Sessions Judge, Hoshiarpur on 21.04.2015, wherein, they stated that they have compromised the matter with the accused-petitioner voluntarily and do not want to proceed further with the case.

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, Hoshiarpur has submitted his report in support of genuineness of the compromise, the present petition is allowed and FIR No.244, dated 29.10.2008, under Sections 279 and 304-A IPC, registered at Police Station Sadar, District-Hoshiarpur, and all other subsequent proceedings arising therefrom, qua the accused-petitioner, are quashed, on the basis of compromise dated 23.08.2014(Annexure P-2)

Consequently, the judgment of conviction and order of sentence dated 23.04.2014 (Annexure P-1) passed by learned Addl. Chief Judicial Magistrate, Hoshiarpur, whereby the accused-petitioner was convicted and sentenced, 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.

25.02.2016

Anjal

(*HARI PAL VERMA*)
JUDGE