

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

Criminal Misc. No. M-4780 of 2016

Date of Decision:-17.03.2016

Mumtaz Mohammad

...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. D.K. Raheja, Advocate for the petitioner.

Mr. R.S. Nain, AAG, Punjab.

Mr. Narinder Singh Kamboj, Advocate for respondents No. 2 & 3.

HARI PAL VERMA J.(Oral)

Prayer in this petition is for quashing of FIR No.33 dated 14.3.2012 (Annexure P-1), under Sections 279, 337, 427 and 304-A IPC (later on Section 181 and 192 of the Motor Vehicle Act were added), registered at Police Station Sahnewal, District Ludhiana City and all the proceedings subsequent arising therefrom including the judgment of conviction and order of sentence dated 07.08.2015 passed by the learned Judicial Magistrate Ist Class, Ludhiana, on the basis of compromise dated 21.01.2016(Annexure P-3).

Learned counsel for the petitioner contends that the learned Judicial Magistrate 1st Class, Ludhiana vide judgment

dated 7.8.2015 has held the petitioner guilty for committing the offence punishable under Sections 279 and 304-A IPC only and vide separate order, sentenced him to undergo rigorous imprisonment for one year and to pay fine of Rs.200/- under Section 304-A IPC and rigorous imprisonment for 6 months for offence punishable under Section 279 IPC. He submits that the appeal against the judgment dated 7.8.2015 is pending before the learned Additional Sessions Judge, Ludhiana. It is during the pendency of the aforesaid appeal, the matter has been compromised between the parties

Quashing of the aforesaid FIR and setting aside of the impugned judgment of conviction and order of sentence dated 07.08.2015 passed by the learned trial Court is sought on the basis of compromise dated 21.01.2016(Annexure P-3) arrived at between the parties during pendency of the appeal before the learned appellate Court.

Vide order dated February 10, 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 February 10, 2016, the learned Additional Sessions Judge, Ludhiana had recorded the statements of the parties and forwarded his report dated 02.03.2016 to the effect that the parties have willfully 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 submitted by the learned Additional Sessions Judge, Ludhiana, it is established that respondent No.2-Mohit Sood and respondent No.3-Kusum Sood have genuinely entered into a compromise with the accused-petitioner.

Mr.Narinder Singh Kamboj, Advocate has put in appearance on behalf of respondent Nos. 2 and 3 and filed Power of Attorney Court today, which is taken on record. He has also fairly conceded the factum of compromise entered into between the parties. He further submits 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, namely, Mohit Sood son of Vinod Sood before the learned Additional Sessions Judge, Ludhiana on 25.02.2016, reads as under:-

“Stated that I tender my affidavit Ex.PB in my evidence. The FIR was registered on my statement and the driver Mumtaz Mohd. was convicted by the learned Ld. Lower Court. The appellant was driver of Vehicle No.PB-13P-9053. The accident occurred on 14.3.2012 and my cousin Sh. Varinder Kumar Sood died in the accident. The claim petition was filed by the legal heirs of deceased Varinder Kaur and they have received the entire compensation awarded in that claim petition. Now the compromise has been effected with the driver Mumtaz Mohd. I have seen the original compromise deed Ex.A1 which bears my signatures and I identify my signature on the same. We compromised the matter without any undue influence, pressure

or coercion. I admit the compromise as correct. We have no objection, if the driver Mumtaz Mohd. May be acquitted in the appeal as per compromise.”

Similarly, the statement of respondent No.3-, namely, Kusum Sood wife of Late Sh. Varinder Sood, before the learned Additional Sessions Judge, Ludhiana on 25.02.2016, reads as under:-

“Stated that I tender my affidavit Ex.PA in my evidence alongwith original compromise Ex.CA which may be read as a part of my evidence. The appellant was driver of Vehicle No.PB-13P-9053. The accident occurred on 14.3.2012 and my husband Sh. Varinder Kumar Sood died in the accident. The claim petition was filed by us and we have received the entire compensation awarded in that claim petition. Now the compromise has been effected with the driver Mumtaz Mohd. I have seen the original compromise deed Ex.A1 which bears my signatures and I identify my signature on the same. We compromised the matter without any undue influence, pressure or coercion. I admit the compromise as correct. We have no objection, if the driver Mumtaz Mohd. may be acquitted in the appeal as per compromise”

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 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, Ludhiana has submitted his report in support of genuineness of the compromise, the present petition is allowed and FIR No.33 dated 14.3.2012 (Annexure P-1), under Sections 279, 337, 427 and 304-A IPC (later on Section 181 and 192 of the Motor Vehicle Act were added), registered at Police Station Sahnewal, District Ludhiana City and all the proceedings subsequent arising therefrom, qua the accused-petitioner, are quashed, on the basis of compromise dated 21.01.2016(Annexure P-3).

Consequently, the judgment of conviction and order of

sentence dated 07.08.2015 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.

17.03.2016

Anjal

(*HARI PAL VERMA*)

JUDGE