

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

Criminal Misc. No. M-4888 of 2016
Date of Decision:-26.05.2016

Amandeep Singh @ Amna and another ...Petitioners

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. J.K. Singla, Advocate for the petitioner.

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

Mr. Kamal Chaudhary, Advocate for
respondent No. 2.

HARI PAL VERMA J.(Oral)

Prayer in this petition is for quashing of Criminal Complaint No.19 dated 12.6.2009 titled as 'Dharminder Singh vs. Amandeep Singh @ Amna and Sandeep Singh @ Seepa', filed under Sections 323, 325, 326, 447, 506 and 34 IPC (Annexure P-1) and all other subsequent proceedings arising therefrom including the judgment dated 10.7.2014 (Annexure P-2), whereby, the petitioners have been convicted under Sections 323, 326, 506 and 447 IPC by the learned trial Court.

Against the said judgment of conviction and order of sentence dated 10.07.2014, the appeal is pending before the learned Additional Sessions Judge, Bathinda. Quashing of the aforesaid complaint and setting

aside of the impugned judgment of conviction and order of sentence dated 10.07.2014 passed by the learned trial Court is sought on the basis of compromise deed dated 02.02.2016(Annexure P-3), entered into 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 for recording their respective statements with regard to compromise/settlement on 17.02.2016 i.e. the date fixed before the Appellate Court 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, Bathinda, had recorded the statements of the parties and forwarded his report dated 17.02.2016 to the effect that the parties have willingly 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 learned Additional Sessions Judge, Bathinda, it is established that respondent No.2/complainant, namely *Dharminder Singh* has genuinely entered into a compromise with the accused-petitioners.

Learned counsel appearing for the respondent No. 2 has also fairly conceded that the compromise arrived at between the parties is genuine and without any pressure or coercion.

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

I have heard learned counsel for the parties.

The statement made by respondent No.2/complainant, namely, *Dharminder Singh* son of Jodh Singh before learned Additional Sessions Judge, Bathinda on 17.02.2016, reads as under:-

“We both the parties have entered into compromise and we have filed a petition u/s. 482 Cr.P.C. for quashing the criminal complaint No.19 dated 12.6.2009 titled as Dharminder Singh vs. Amandeep Singh @ Amna and Sandeep Singh @ Seepa and his brother Amandeep Singh @ Amna have been arrayed as accused in the complaint. None of the accused is proclaimed offender and the compromise is genuine, voluntarily and without any coercion or undue influence. Now we have no grudge against each other.”

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.

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, Bathinda has submitted his report in support of genuineness of the compromise, the present petition is allowed and Criminal Complaint No.19 dated 12.6.2009 titled as '**Dharminder Singh vs. Amandeep Singh @ Amna and Sandeep Singh @ Seepa**', filed under Sections 323, 325, 326, 447, 506 and 34 IPC (Annexure P-1) and all other subsequent proceedings arising therefrom, are quashed, qua the accused-petitioners, on the basis of compromise deed dated 02.02.2016 (Annexure P-3).

Consequently, the judgment of conviction and order of sentence dated 10.07.2014 passed by the trial Court, are set aside.

The appeal preferred by the accused-petitioners against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first Appellate Court.

26.05.2016
Anjal

(*HARI PAL VERMA*)
JUDGE