

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-2982-2013 (O&M)

Date of decision: October 17, 2016.

Santosh and another

... **Petitioners**

v.

State of Haryana and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Ms. Priyanka Dalal, Advocate for the petitioners.

Ms. Tanushreet Gupta, Deputy Advocate General, Haryana.

Shri Anil Gahlawat, Advocate for respondent Nos.2 to 4.

A.B. Chaudhari, J. (Oral):

Heard Learned Counsel for the rival parties.

Learned Counsel for the petitioners submitted that the appellate court committed error on two aspects. In the first place, the offence under Section 452 IPC is not compoundable in either case, i.e. Section 320 Part (1) and Part (2) Cr.P.C., and therefore, the order allowing compounding of offence is wrong and it is only the power under Section 482 Cr.P.C. which could be exercised. Secondly, according to her, there was no compromise at all but the Sessions Court has wrongly recorded the same in para 7 of the judgment and order.

I have perused the impugned judgment and order so also para 7 and 9 thereof. Learned appellate court has categorically recorded that the complainant told the appellate court that the compromise has been arrived at

as they belong to the same village and reside in neighbourhood and therefore the complainant has no grievance to compound and in that view of the matter the appellate court allowed compounding of the offences. I quote para 7 and 9 from the judgment and order dated 2.1.2013 which read thus:-

“7. In view of the above discussion, this court is of the view that parties are within their domain to compound the offence at this stage. The accused and the complainant are belonging to same village and are residing in neighborhood. Today complainant has compounded the offence with the accused and now he has no grievance against them. It is categorically stated that after the incident parties have developed family relations and they wish to reside peacefully in the village in future without any kind of disruption in their future lives. This court is satisfied that the complainant has voluntarily desired to compound the offence with the accused for sufficient and genuine reasons stated in his statement before the court and such compounding is legal and valid. Hence, this court hereby allows the parties to compound the offence. Complainant and accused are the close neighbourer and do not want to continue with the proceedings and have decided to end up all the proceedings amicably once forever and, as such, he do not have any objection, if the present appeal is accepted in toto and all the appellants are acquitted.

9. In view of the statement made by complainant party, the offence stood compoundable, conviction of accused under Sections 323, 325, 452, 506 IPC read with section 149 IPC is set aside. Bail bonds and surety bonds furnished by accused are discharged. Case property be dealt according to rules and file by consigned to records after due compliance.”

I do not find any substance in the contention that the petitioners did not agree for compromise or compounding and nor I am inclined to disbelieve the statements recorded by the court in para 7 and 9 of the order

since there is a presumption of correctness thereof. In order to rebut the statements in para 7 and 9 made by the learned appellate court, I have seen the memo of revision and I do not find any denial about the statements made in the court recorded by the lower appellate court but for a vague assertion which I am not prepared to give any importance qua the record of the judgment of the lower appellate court which must be respected in the absence of plausible evidence to the contrary. In so far as the second aspect regarding power of the appellate court qua Section 320 Cr.P.C. is concerned, I think the said defect can be rectified by me by exercising inherent powers under Sections 482 Cr.P.C. in order to allow the compounding of offences under Sections 452, 148 and 149 IPC also.

The incident relates back to 7th October, 2003 and therefore there is no point in continuing with the prosecution particularly when this Court has believed the fact that the complainant had entered into compromise and compounded the offences as recorded by the lower appellate court.

Hence, the revision petition is disposed of and the offences under Section 452, 148 and 149 IPC are compounded under the inherent powers of this Court under Section 482 Cr.P.C.

[**A.B. Chaudhari**]
Judge

October 17, 2016.
kadyan

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No