

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

CRM-M-945 of 2016.
Decided on:-20.07.2016.

Ramesh and others

.....Petitioners.

Versus

State of Haryana and another

.....Respondents.

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

1. Whether reporters of local newspapers may be allowed to see judgment? Yes
2. To be referred to reporters or not? Yes
3. Whether the judgment should be reported in the Digest? Yes

Present:- None for the petitioners.

SI Mahavir Singh on behalf of respondent-State.

None for respondent No.2.

HARI PAL VERMA, J. (ORAL)

Prayer in this petition is for quashing of FIR No.279 dated 15.7.2010 under Sections 148, 149, 323, 342 and 506 IPC registered at Police Station Barwala, District Hisar (Annexure P-1) and all subsequent proceedings arising therefrom including the judgment of conviction dated 18.3.2015 and order of sentence dated 19.3.2015 passed by the Judicial Magistrate 1st Class, Hisar on the basis of compromise dated 10.12.2015 (Annexure P-3).

This Court vide order dated January 12, 2016 had directed the parties to appear before the appellate Court for recording their respective

statements with regard to compromise/settlement and the appellate Court was directed to send its report qua the genuineness of said compromise.

Pursuant to the aforesaid order, the parties have appeared before learned Additional Sessions Judge, Hisar and have got their statements recorded. On the basis of the statements so recorded by the parties, learned appellate Court has submitted his report dated 9.3.2016 to the effect that the statements have been made by the parties voluntarily and without any pressure.

Perusal of the report submitted by learned appellate Court reveals that joint statement of the petitioners-accused as well as separate statement of respondent No.2-complainant Vidya Devi have been recorded by learned appellate Court on 9.3.2016 wherein they have mentioned that the matter has been compromised between the parties voluntarily, without any coercion and undue influence and out of their free will. The statement of respondent No.2-complainant, who is author of the FIR, made before learned appellate Court is being reproduced as under:

“Stated that due to intervention of brotherhood Panchayat, I have compromised with Ramesh, Krishan Kumar, Rishal Singh, Sewa and Phooli Devi and the dispute has been settled between me and appellants. This compromise is out of my free will without any pressure and undue influence. I have no objection if the F.I.R. No.279 dated 15.07.2010 under Sections 148, 149, 323, 342 and 506 IPC, Police Station Barwala, District Hisar is quashed. I have made this statement

voluntarily. ”

SI Mahavir Singh is present in the Court on behalf of respondent-State and states that in the case in hand, compromise cannot be accepted as the petitioners have been convicted on the basis of available material.

The aforesaid contention of SI Mahavir Singh cannot be accepted as this Court in the case of ***Sube Singh and another Versus State of Haryana and another 2013(4) RCR (Criminal) 102*** has already 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. The observations made in the said judgment are 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.”*

Therefore, while relying upon the aforesaid judgment and coupled with the fact that the parties have entered to compromise and

learned appellate Court has submitted its report in support of genuineness of the compromise, no useful purpose would be served to continue with the proceedings before the appellate Court in the instant F.I.R.

Accordingly, the present petition is allowed and FIR No.279 dated 15.7.2010 under Sections 148, 149, 323, 342 and 506 IPC registered at Police Station Barwala, District Hisar (Annexure P-1) is quashed on the basis of compromise dated 10.12.2015 (Annexure P-3). Resultantly, the impugned judgment of conviction 18.3.2015 and order of sentence dated 19.3.2015 passed by learned Judicial Magistrate 1st Class, Hisar are set aside. The appeal preferred by the petitioners against the aforesaid judgment and order is rendered infructuous and shall be declared so by the appellate Court.

July 20, 2016
Yag Dutt

(HARI PAL VERMA)
JUDGE