

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

Criminal Misc. No.M-18426 of 2017

Date of Decision: 20.11.2017

Malkiat Singh & others

...Petitioner(s)

Versus

State of Punjab & others

...Respondent(s)

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

Present:- Mr. A.S. Sekhon, Advocate for
for the petitioners.

Mr. M.S. Nagra, AAG, Punjab.

HARI PAL VERMA, J. (Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.29 dated 05.05.2011 (Annexure P-1) under Sections 341/326/324/323/506/34 IPC registered at Police Station Sadiq, District Faridkot and subsequent proceedings arising therefrom on the basis of compromise by way of affidavit of complainant-respondent no.2 dated 12.05.2017 (Annexure P-2) and affidavit of injured-respondent no.3 dated 16.05.2017 (Annexure P-3).

This Court vide order 11.09.2017, had directed the parties to appear before the Appellate Court to get their statements recorded

with regard to compromise and learned Appellate Court was directed to submit its report regarding the genuineness of the compromise on the basis of statements so recorded.

Pursuant to the order dated 11.09.2017 of this Court, the parties have appeared before learned Additional District and Sessions Judge, Faridkot and got their statements recorded. Learned learned Additional District and Sessions Judge, Faridkot has forwarded her report dated 25.09.2017 to the effect that the aforesaid statements have been recorded by the parties voluntarily and their compromise has been arrived at without any pressure or undue influence from either side. Thus, the compromise is genuine and valid. The statements of complainant-respondent no.2 Baldev Singh and injured respondent no.3 Harpreet Kaur have also been attached with the report, wherein they stated that the compromise entered into between them is genuine and they have no objection to the FIR being quashed. The statement of complainant-respondent no.2 Baldev Singh reads as under:-

*“That we have arrived compromise with accused persons namely Malkiat Singh, Gurmeet Singh, Jaswinder Kaur, Rajpal Kaur and Bhinda Singh @ Binda @ Bhupinder Singh with the help of respectables. I have seen my affidavit, same is **Annexure P2**, received from Hon’ble High Court alongwith order dated 11.9.2017 where I identify my signatures and admit the contents of annexure P2 as true and correct. We do not have copy of original affidavit (compromise as, original has been filed*

with the petition for quashing of the proceedings before Hon'ble Punjab & Haryana High Court).

The compromise has been arrived at, between us out of our free will and without any coercion, threat, pressure, greed or fraud. The compromise is for welfare of both the parties. We do not want to further proceed against accused persons. We have no objection if the FIR No.29 dated 5.5.2011 u/s 341/326/324/323/506/34 IPC PS Sadiq and consequent proceedings, arising be quashed against the accused. I have no objection if the judgment dated 15.12.2016 Annexure P4 be set aside.

Today I have suffered my statement without any fear, pressure, coercion as per my free will and wish for the welfare of both the parties. I have brought the original Adhar Card, the photo-stat copy of the same which bears my signatures is Annexure C2.”

The similar statement was also made by injured-respondent no.3 Harpreet Kaur, whereby she has shown no objection to the FIR being quashed.

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

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 have 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** also 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.

In view of the above, when the matter has been compromised between the parties with the intervention of

respectables, no useful purpose would be served to continue with the proceedings before the Appellate Court.

Therefore, while relying upon the aforesaid judgments and coupled with the fact that the parties have entered into a compromise and learned Additional Sessions Judge, Faridkot has submitted her report in support of genuineness of the compromise, the present petition is allowed and FIR No.29 dated 05.05.2011 (Annexure P-1) under Sections 341/326/324/323/506/34 IPC registered at Police Station Sadiq, District Faridkot and subsequent proceedings arising therefrom are quashed, *qua* the petitioners, in view of compromise so arrived between the parties.

Consequently, the impugned judgment of conviction and order of sentence dated 15.12.2016 passed by the learned Judicial Magistrate Ist Class, Faridkot 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 first Appellate Court.

November 20, 2017
AK

(HARI PAL VERMA)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No