

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

**Criminal Misc. No. M-1938 of 2017
Date of Decision:-24.07.2017**

Dharminder Kumar alias Kaka Kirpan and others

...Petitioners

Versus

State of Punjab and another

...Respondents

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

Present:- Mr. Rahul Makkar, Advocate for
Mr. L.M. Gulati, Advocate
for the petitioners.

Mr. Bhupender Beniwal, AAG, Punjab.

Ms. Jasleen Kaur, Advocate
for respondent No.2.

HARI PAL VERMA J.(Oral)

Prayer in the present petition filed under Section 482 Cr.P.C. is for quashing of FIR No.15 dated 21.2.2010, under Sections 323, 454, 427, 382, 506 IPC, registered at Police Station "A" Division, Amritsar, on the basis of compromise dated 17.11.2016 (Annexure P-4) alongwith all consequential proceedings arising therefrom including the judgment of conviction and order of sentence dated 07.10.2015 passed by learned Chief Judicial Magistrate, Amritsar (Annexure P-1) whereby the petitioners Dharminder Kumar alias Kaka Kirpan, Vijay Kumar alias Sonu and Ravi

Kumar alias Monu have been convicted and sentenced as under :-

<i>U/Sec.</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default R.I.</i>
323 IPC	6 months	---	---
451 IPC	1 year	Rs.500/-	15 days
506 IPC	1 year	---	---
382 IPC	1 year	Rs.500/-	15 days
427 IPC	6 months	---	---

Quashing of the aforesaid FIR and setting aside of the impugned judgment and order dated 07.10.2015 passed by learned trial Court is sought on the basis of compromise dated 17.11.2016 as entered between the parties during the pendency of the appeal before the learned Appellate Court, Amritsar.

Vide order dated 21.3.2017, this Court has directed the parties to appear before the learned Appellate Court to get their statements recorded and the learned Appellate Court was directed to forward a report about the genuineness of the compromise to this Court.

In compliance of the order dated 21.3.2017, the parties have appeared before the learned Additional Sessions Judge, Amritsar on 20.4.2017 for getting their statements recorded.

The report dated 21.4.2017 received from the learned Additional District & Sessions Judge, Amritsar, reveals that the compromise has been effected between the parties without any undue pressure.

The statement made by complainant Vijay Kumar before the learned Additional Sessions Judge, Amritsar, on 20.4.2017 reads as under :-

“Stated that I got an FIR bearing No.15 dated

21.2.2010, under Sections 323, 452, 427, 382, 506 IPC, Police Station Kotwali, Amritsar registered against Dharminder Singh alias Kaka Kirpal son of Sohan Lal, r/o 2208, Gali Jaswant Wali, inside Lohgarh Gate, Amritsar, Vijay Kumar @Sonu son of Tarsem Lal and Ravi Kumar @ Monu son of Tarsem Lal, both residents of Katra Moti Ram, Inside Hathi Gate, Amritsar. Vide judgment dated 7.10.2015 the said accused have been convicted but now I have compromised with them without any coercion and pressure etc. My said compromise is voluntarily made. The convicts have preferred a CRM No. M-1938 of 2017 (O & M) in the Hon'ble High Court, the same be allowed due to my compromise.”

Learned counsel appearing for respondent No.2-complainant has also fairly conceded the factum of compromise entered into between the parties. She has submitted that the compromise effected between the parties is genuine and without any pressure or coercion.

Learned State counsel does not dispute the aforesaid factual position, rather admits the factum of compromise effected between the parties.

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 have entered into a compromise, the High Court

is vested with 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 a 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 an 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, Amritsar has submitted his report in support of genuineness of the compromise, the present petition is allowed and the FIR No.15 dated 21.2.2010, under Sections 323, 454, 427, 382, 506 IPC, registered at Police Station "A" Division, Amritsar and all subsequent proceedings arising therefrom are quashed qua the petitioners, on the basis of compromise dated 17.11.2016 (Annexure P-4) subject to depositing of Rs.15,000/- by the petitioners with the Punjab Legal Services Authority, Chandigarh.

Consequently, the impugned judgment of conviction and order of sentence dated 07.10.2015 passed by the learned Chief Judicial Magistrate, Amritsar, 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.

It is made clear that in case petitioners faild to deposit Rs.15000/- with the Punjab State Legal Services Authority, the present petition shall be deemed to have been dismissed.

July 24, 2017
Vijay Asija

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned

Yes / No

Whether Reportable

Yes / No