

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

252

CRM-M-20738 of 2017

Date of Decision:15.11.2017

Arun Kumar @ Anu

.....Petitioner

Versus

State of Punjab and another

.....Respondents

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

Present: Mr. I.S. Brar, Advocate,
for the petitioner.

Mr.Bhupender Beniwal, A.A.G., Punjab,
for respondent No.1.

Mr. I.S. Mann, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.139 dated 10.04.2014 under Sections 279, 337, 427 IPC, registered at Police Station Kotwali, District Bathinda (Annexure P-1) and all subsequent proceedings arising therefrom including the judgment of conviction and order of sentence both dated 10.04.2017 passed by the Chief Judicial Magistrate, Bathinda on the basis of compromise dated 19.05.2017 (Annexure P-3).

This Court vide order dated 25.09.2017 had directed the parties to appear before the Appellate Court to get their statements recorded with regard to the compromise and the learned Appellate Court was directed to send its report qua the genuineness of the said compromise.

Pursuant to the aforesaid order, parties have appeared before learned Additional Sessions Judge, Bathinda and got their statements recorded. On the basis of the statements so recorded, learned Appellate Court has submitted his report dated 27.10.2017 to the effect that the parties have compromised the matter without any pressure, threat or coercion and is the result of their free will. The compromise is genuine.

Perusal of the report submitted by learned Appellate Court reveals that the statement of the petitioner-accused as well as separate statement of respondent No.2-complainant Vaneet Sharma have been recorded by learned Appellate Court on 24.10.2017 wherein they have mentioned that the matter has been compromised between them without any pressure, coercion and undue influence. The statement of respondent No.2-complainant, who is author of the FIR, made before learned Appellate Court is being reproduced as under:-

“I had got the present FIR registered bearing FIR No.139 dated 10.04.2014 u/s 279, 337, 338 of IPC of PS Kotwali against the accused Arun Kumar @ Annu. In which the accused Arun Kumar has been convicted. Now the compromise has been effected between me and accused Arun Kumar @ Annu without any pressure, coercion and undue influence. I have no objection if the present FIR may kindly be quashed and appeal be allowed.”

Learned State Counsel states that in the case in hand, compromise cannot be accepted as the petitioner has been convicted on the basis of available material.

The aforesaid contention of the learned State Counsel 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 unparallel 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 into 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.139 dated 10.04.2014 under Sections 279, 337, 427 IPC, registered at Police Station Kotwali, District Bathinda (Annexure P-1) is quashed qua the petitioner on the basis of compromise dated 19.05.2017 (Annexure P-3). Resultantly, the impugned judgment of conviction and order of sentence both dated 10.04.2017 passed by learned Chief Judicial Magistrate, Bathinda are set aside. The appeal preferred by the petitioner against the aforesaid judgment and order is rendered infructuous and shall be declared so by the Appellate Court.

November 15, 2017
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(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No