

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

CRR No.3959 of 2014 (O&M)

Date of decision: November 09, 2017

Parminder Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Atul Lakhanpal, Senior Advocate with
Mr. Arjun Lakhanpal, Advocate for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab
for respondent No. 1-State.

Mr. Jasmeet Singh, Advocate
for respondent No.2/complainant.

HARI PAL VERMA. J.(ORAL)

CRM-37530 of 2014

Prayer in the present application filed under section 5 of the Limitation Act is for condonation of delay of 1466 days in filing the present revision petition.

For the reasons stated in the application, same is allowed and delay of 1466 days in filing the revision petition is condoned.

CRR No.3959 of 2014

Petitioner has filed the present criminal revision petition against the judgment dated 09.08.2010 passed by learned Sessions Judge,

Saheed Bhagat Singh Nagar, whereby his appeal against the judgment of conviction and order of sentence dated 19.04.2007 passed by learned Judicial Magistrate 1st Class, Nawanshahr, was dismissed.

Vide judgment dated 19.04.2007, learned Magistrate has held the petitioner guilty for commission of offence punishable under Section 420 IPC and vide separate order of even date, sentenced him to undergo rigorous imprisonment for a period of 03 years and to pay fine of Rs.5000/-. In default of payment of fine, he was further ordered to undergo rigorous imprisonment of 02 months.

Briefly stated, FIR No.281 dated 19.12.2000, under Section 420 IPC, Police Station City Nawanshahr was registered against the petitioner at the behest of complainant-Tarsem Singh who was running a shop in the name and style of M/s. Rehal Furniture House at Chandigarh-Road, Nawanshahr. It is the allegation against the petitioner that he contacted the complainant and told him that he has started a firm known as JVG which doubles the amount deposited, in 03 years. On the basis of this assurance, the complainant paid Rs.50,000/- to the petitioner for depositing the same in his firm known as JVG. Some other workers, namely, Ram Lal, Des Raj, Sarabjit, Manohar Lal and Dalbir, who were working with the complainant, also deposited some amount with the petitioner. However, after the maturity period, when the complainant and other persons demanded the money, the petitioner had told them that as the firm has failed, he will not be able to pay back the money, which led to registration of the FIR against him.

Learned Senior counsel appearing for the petitioner has argued that after the dismissal of the appeal by learned Sessions Judge,

SBS Nagar on 09.08.2010, the matter has been compromised between the parties vide compromise deed dated 08.09.2014 with the following extracted terms:-

“1. That party No.1 states that his father Tarsem Singh during his life time had returned all the amount to their employees referred to above which they had deposited with JVG firm at the asking of Tarsem Singh and undertakes to indemnify the Party No. 2 in case any of the employees makes the complaint against Party No. 2. Party No. 1 also states and declares that the whereabouts of the above referred employees are not known to him as they had left the employment long back.

2. That Party No.1 has received an amount of Rs.1.20 lacs from Party No.2 as full and final settlement of the litigation and undertakes not to pursue the FIR against Party No.2 and will have no objection if the revision filed by Party No.2 is allowed and the proceedings against him are dropped.

3. That Party No.1 undertakes to make a statement regarding the compromise having been effected between the parties before the Hon'ble High Court or any other authority and also to appear before the Court and make statement regarding the compromise having been effected between the parties.

4. That both the parties have agreed that they shall not initiate any proceedings against each other regarding the above referred FIR or any proceedings incidental thereto.”

He has further argued that in view of the compromise so arrived at between the parties and having recourse to the provisions of Section 320(6) Cr.P.C. the matter in dispute is liable to be compounded.

On the last date of hearing i.e. September 04, 2017, the learned State counsel was fair enough to admit the fact that the offence is compoundable and the parties have entered into a compromise, though the compromise was entered after the dismissal of the appeal.

Learned counsel for complainant/respondent No.2 has fairly admitted the very factum of compromise entered into between the parties.

I have heard learned counsel for the parties.

Admittedly, the offence under Section 420 IPC is compoundable by the person cheated, though with the permission of the Court. Relevant extract of Section 320(2) Cr.P.C. and Section 320(6) Cr.P.C. reads as under:-

“320. Compounding of offences:-

- (1) xxx xxx xxx
- (2) *The offences punishable under the sections of the Indian Penal (45 of 1860) Code specified in the first two columns of the Table next following may, with the permission of the Court before which any prosecution for such offence is pending, be compounded by the persons mentioned in the third column of that Table:-*

<i>Offence</i>	<i>Section of Indian Penal Code applicable</i>	<i>Person by whom offence may be compounded</i>
<i>Cheating and dishonestly inducing delivery of property or the making, alternation or destruction of a valuable security.</i>	420	<i>The person cheated.</i>

(6) *A High Court or Court of Session acting in the exercise of its powers of revision under section 401 may allow any person to compound any offence which such person is competent to compound under this section.”*

“(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Cr.P.C. 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. vs. State of Madhya Pradesh & Anr., (2008) 5 SCC 794**, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498-A IPC 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 Cr.P.C. 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 Cr.P.C. 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.”*

In view of the admitted position that the matter has been compromised between the parties and having recourse to the provisions of Section 320(6) Cr.P.C. as well as law laid down by Division Bench of this Court in ***Sube Singh’s case (supra)***, the present petition is allowed, judgment and order of sentence dated 19.04.2007 passed by learned Judicial Magistrate 1st Class, Nawanshahr including judgment dated 09.08.2010 passed by learned Sessions Judge, Saheed Bhagat Singh Nagar are set aside and petitioner is acquitted of the charges framed against him.

This shall, however, be subject to payment of cost of Rs.25000/- to be deposited by the petitioner in the High Court Lawyer’s Welfare Fund, within a period of one month from today, failing which, the instant revision petition shall deemed to be dismissed in totality.

November 09, 2017
m. sharma

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned : Yes
Whether reportable : Yes/No