

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

**CRR No.105 of 2017(O&M)  
Date of Decision-07.02.2017**

Kewal Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

**CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH**

Present: Mr. Vikas Gupta, Advocate for the petitioners.

Ms. Rimplejeet Kaur, AAG, Punjab.

Ms. Arti Kataria, Advocate for  
Mr. Dilpreet Singh Gandhi, Advocate for  
respondents No.2 to 4.

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**RAJ MOHAN SINGH, J.**

**CRM No.1064 of 2017**

For the reasons mentioned in the application, the  
same is allowed.

Accompanying documents are taken on record.

**Main case**

[1]. Petitioners have filed this criminal revision against the  
judgment of conviction and sentence passed by the Courts  
below.

[2]. Petitioners were convicted for the offences under  
Sections 323, 324, 326, 148, 149 IPC by the trial Court vide

judgment of conviction and order of sentence dated 14.08.2013. They remained unsuccessful before the lower Appellate Court when their appeal was dismissed by the Additional Sessions Judge, Tarn Taran vide judgment dated 07.12.2016.

[3]. During pendency of the appeal before the lower Appellate Court, the matter was amicably settled between the parties due to intervention of respectables of the society. A written compromise was executed between the parties on 22.12.2015, wherein it was decided that none of the parties will take action against each other and they will withdraw all the cases *inter se* between them in order to live in peace and harmony. As a result of said compromise, petitioner No.2-Bhag Singh did not pursue his criminal complaint against the complainant party and as a result of that, complainant party was discharged by the trial Court vide order dated 17.08.2016. Somehow, the factum of compromise could not be appreciated by the lower Appellate Court and the appeal of the accused-petitioners was dismissed.

[4]. The extent and sweep of inherent powers of the High Court under Section 482 Cr.P.C., for quashing criminal prosecution on merits as well as on the basis of compromise between the accused and the victim remained question of interpretation since long. The Hon'ble Apex Court after due consideration of judgments in ***Madhu Limaye vs. State of***

**Maharashtra, AIR 1978 Supreme Court 47, Bhajan Lal vs. State of Haryana and others, AIR 1992 Supreme Court 604 and State of Karnataka vs. L. Muniswamy and others, AIR 1977 Supreme Court 1489**, has summed up the controversy in **State through Special Cell, New Delhi vs. Navjot Sandhu @ Afshan Guru and others, 2003(2) RCR (CrI.) 860 (SC)**. The legal position summed up in the said judgment is in the following manner:-

*“Thus, the law is that Article 227 of the Constitution of India gives the High Court the power of superintendence over all courts and tribunals throughout the territories in relation to which it exercises jurisdiction. This jurisdiction cannot be limited or fettered by any Act of the State Legislature. The supervisory jurisdiction extends to keeping the subordinate tribunals within the limits of their authority and to seeing that they obey the law. The powers under Article 227 are wide and can be used, to meet the ends of justice. They can be used to interfere even with an interlocutory order. However, the power under Article 227 is a discretionary power and it is difficult to attribute to an order of the High Court, such a source of power, when the High Court itself does not in terms purport to exercise any such discretionary power. It is settled law that this power of judicial superintendence, under Article 227, must be exercised sparingly and only to keep subordinate courts and tribunals within the bound of their authority and not to correct mere errors. Further, where the statute bans the exercise of revisional powers it would require very exceptional circumstances to warrant interference under Article 227 of the Constitution of India since the power of superintendence was not meant to circumvent statutory law. It is settled law that the jurisdiction under Article 227 could not be exercised "as the cloak of an appeal in disguise.*

*Section 482 of the Criminal Procedure Code starts with the words "Nothing in this Code". Thus the inherent jurisdiction of the High Court under Section 482 of the Criminal Procedure Code can be exercised even when there is a bar under Section 397 or some other provisions of the Criminal Procedure Code. However, as is set out in Satya Narayan Sharma's case (supra) this power cannot be exercised if there is a statutory bar in some other enactment. If the order assailed is purely of an interlocutory character, which could be corrected in exercise of revisional powers or appellate powers the High Court must refuse to exercise its inherent power. The inherent power is to be used only in cases where there is an abuse of the process of the Court or where interference is absolutely necessary for securing the ends of justice. The inherent power must be exercised very sparingly as cases which require interference would be few and far between. The most common case where inherent jurisdiction is generally exercised is where criminal proceedings are required to be quashed because they are initiated illegally, vexatiously or without jurisdiction. Most of the cases set out herein above fall in this category. It must be remembered that the inherent power is not to be resorted to if there is a specific provision in the Code or any other enactment for redress of the grievance of the aggrieved party. This power should not be exercised against an express bar of law engrafted in any other provision of the Criminal Procedure Code. This power cannot be exercised as against an express bar in some other enactment."*

[5]. Full Bench of this Court in ***Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (Cr.) 1052*** considered the scope of powers under Section 482 Cr.P.C., to hold that High Court has powers to quash prosecution in order to achieve ends of justice and to prevent abuse of

process of law. These powers are not limited to matrimonial dispute alone, rather these powers are unlimited. However these powers are to be exercised very sparingly and with utmost care and caution. There is no statutory bar which can affect the inherent powers of High Court under Section 482 Cr.P.C. The powers under Section 482 Cr.P.C., is to be exercised *Ex-Debitia, justitia* to prevent abuse of process of Court.

[6]. In **Dr. Arvind Barsaul etc. Vs. State of Madhya Pradesh and another, (2009) CriLJ 331**, the Hon'ble Supreme Court held that the proceedings even after conviction of the accused can be quashed on the basis of compromise. If the Court finds that continuation of criminal proceedings would result in abuse of process of law, then inherent jurisdiction of the Court can be resorted to in setting the controversy right.

[7]. In **Sube Singh and another Vs. State of Haryana and another, (2013) 4 RCR (Criminal) 102**, this Court also held that inherent jurisdiction of the High Court can be pressed into service even after conviction of the accused and during pendency of the appeal before the first Appellate Court, where it is found that the continuation of proceedings would result in abuse of process of law and such an exercise would advance cause of justice. There is no embargo against invoking of power under Section 482 Cr.P.C after conviction of the accused by the trial Court and during pendency of the appeal.

[8]. The compromise in question would definitely facilitate both the parties to live in peace and to maintain public tranquility. The offences are personal in nature and does not involve any heinous and serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. The magnitude of inherent power of High Court is wide enough to cover proceedings in appeal also.

[9]. Compoundable nature of offence under Section 320 Cr.P.C vis-a-vis the amendment Act No.25 of 2005 has been discussed in **2008(4) RCR (Crl.) 552, Manoj & Anr. v. State of Madhya Pradesh** by the Hon'ble Apex Court. The Hon'ble Apex Court has observed in para No.13 as follows:-

*“It requires to be noticed that Criminal Procedure Code (Amendment) Act, 2005 [Act No.25/2005] amended Section 320 of the Code and in the Table under sub-section*

*(2) (a) the words “voluntarily causing hurt by dangerous weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 has been omitted. But the said amendment by Act No.25 of 2005 has not yet been brought into force. Therefore, the offence under Section 324 is still compoundable with the permission of the Court.”*

[10]. In **2009(2) RCR (Crl.) 859, Mathura Singh and others v. State of U.P.**, the compounding phenomenon was applied to offence under Section 324 IPC after conviction of the accused by the Hon'ble Apex Court in a compromise before it. **Manoj and anothers'** case (supra) was relied upon in this case.

[11]. Similarly in **2014(3) RCR (Crl.) 578, Baghel Singh v. State of Punjab**, this Court by relying upon earlier judgment of this Court allowed the compounding of offence in respect of offence under Section 326 IPC at appellate stage, where the Court came to the conclusion that it will be starting point in maintaining peace between the parties.

[12]. The State on notice, however, objected to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that both the parties have settled their dispute of private nature, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of compromise.

[13]. Since the compromise dated 22.12.2015 had already been given effect in a cross case filed by petitioner No.2 when he did not press the complaint against the complainant party and the complainant party had already been discharged, therefore, it can be safely taken that compromise having been given effect would go in a long way to bring both the parties at a harmonious platform so as to live in peace and maintain public tranquility.

[14]. In view of aforesaid facts and circumstances, I am of the view that continuation of proceedings would lead to vacuum and would create hurdle in bringing peace between the parties. Interference by the High Court in exercise of inherent jurisdiction under Section 482 Cr.P.C would advance cause of justice. From the custody certificates of the petitioners, it can be noticed that petitioners have undergone two to three months of actual sentence as on 03.02.2017. At this juncture, it would be just and expedient to sentence all the petitioners for the period they have already undergone. Ordered accordingly.

[15]. This criminal revision is accordingly disposed of.

**(RAJ MOHAN SINGH)**  
**JUDGE**

07.02.2017

Prince

**Whether reasoned/speaking**

**Yes/No**

**Whether reportable**

**Yes/No**