

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Date of Decision: 22.2.2018

CRA-S-3308-SB-2012

Amrik Singh and others..... Appellants

Versus

State of Punjab.....Respondents

CRM-M -8155-2017

Amrik Singh and others..... Petitioners

Versus

State of Punjab and another.....Respondents

CRA-AS-44-2017

Balwinder Singh @ Bikkar Singh.....Petitioner

Versus

State of Punjab and Others.....Respondents

Coram: Hon'ble Mr. Justice Arvind Singh Sangwan

Present: Mr.T.P.Singh,Advocate for the petitioners
Mr.Abheypal Singh,Deputy Advocate General, Punjab
Mr.Gurbhagat Singh Gill,Advocate for respondents No. 2 &3.

ARVIND SINGH SANGWAN, J.

This order will dispose of above mentioned three petitions i.e. *CRA-S-3308-SB-2012*, CRM-M-8155-2017 and CRA-AS-44-2017. In *CRA-S-3308-SB-2012*, appellants have sought their acquittal by setting aside the impugned judgment and order dated 12.9.2012 whereby they have been convicted by the trial Court. In CRM-M-8155-2017 filed under Section 482 of the Code of Criminal Procedure, 1973, petitioners are seeking quashing of FIR No. 79 dated 17.8.2017 under Sections 450, 326, 323, 148 and 149 of the Indian Penal Code, 1860 ('IPC' for short), registered at Police Station Sherpur Singh, Sangrur (Annexure P1) and all consequential proceedings arising therefrom, on the basis of compromise dated 19.1.2017 (Annexure P2) and in CRA-AS-44-2017 the acquittal of respondents No. 2 to 4 in cross-version has been challenged.

The accused and the complainant faced trial in version and cross-version in FIR No.79 dated 17.8.2017 under Sections 450,326,323,148 and 149 IPC registered at Police Station Sherpur Singh, Sangrur (Annexure P1). The complainants were acquitted in the cross-version vide judgment dated 12.9.2012 and CRM-A-929-MA-2012 is filed challenging the judgment of acquittal whereby leave to appeal was granted by treating the same as CRA-AS-44-2017 and was ordered to be heard along with CRA-S-3308-SB-2012 . The accused, who were convicted in the main FIR, vide judgment dated 12.9.2012 and sentenced to undergo five years rigorous imprisonment, have filed CRA-S-3308-SB-2012 whereby their sentence has been suspended.

Vide order dated 24.4.2017 passed by this Court, a direction was given to the trial Court to record the statements of the affected parties and submit a report regarding the genuineness of the compromise effected between the parties subject to deposit of ₹ 10,000/- each i.e. total ₹ 40,000/- within a period of four weeks with the Registry of this Court which shall be transferred to the State of Punjab after deposit.

In pursuance thereof, the trial Court has submitted a report dated 4.7.2017 (forwarded by District and Sessions Judge, Sangrur on 5.7.2017), after recording the statements of the parties, that the complainant-Jagdeep Singh alongwith injured-Jaspinder Singh alias Jaswinder Singh and accused-Amrik Singh, Balwinder Singh alias Bikar, Hakam Singh and Boota Singh have appeared along with their respective counsel, who had identified them and got their statement recorded acknowledging that the compromise had been effected voluntarily, without any coercion or any undue influence and none of the accused was declared as proclaimed offender.

As per the Full Bench judgement of this Court in **Kulwinder Singh and others vs. State of Punjab, 2007 (3) RCR (Criminal) 1052**, High Court has power under Section 482 Cr.P.C. to allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any Court or to otherwise secure the ends of justice. This power of quashing is not confined to matrimonial disputes alone.

The Apex Court in **Central Bureau of Investigation vs. Sadhu Ram Singla and others** (2017) 5 Supreme Court Cases 350 has

held as under:-

“Having carefully considered the singular facts and circumstances of the present case, and also the law relating to the continuance of criminal cases where the complainant and the accused had settled their differences and had arrived at an amicable arrangement, we see no reason to differ with the view taken in Manoj Sharma’s case (supra) and several decisions of this Court delivered thereafter with respect to the doctrine of judicial restraint. In concluding hereinabove, we are not unmindful of the view recorded in the decisions cited at the Bar that depending on the attendant facts, continuance of the criminal proceedings, after a compromise has been arrived at between the complainant and the accused, would amount to abuse of process of Court and an exercise in futility since the trial would be prolonged and ultimately, it may end in a decision which may be of no consequence to any of the parties.”

As per the Division Bench judgement in **Sube Singh and another Vs. State of H Sube Singh and another Vs. State of Haryana and another** 2013 (4) R.C.R. (Criminal) 102, it is held by this Court that the compounding of offence at the appellate stage is permissible on the basis of the compromise by invoking the power under Section 482 Cr.P.C. even after the conviction of accused person by the trial Court and during the pendency of the appeal against such conviction and , following questions were framed for consideration therein:-

“(1) Whether the power exercisable by the High Court

under Section 482 Cr. P.C. is controlled by Section 320 Cr. P.C. or it can be invoked in an appropriate case even if the offences are not compoundable in nature? (2) Whether criminal proceedings can be quashed by the High Court in exercise of its power under Section 482 Cr. P.C. even after the accused was found guilty and convicted by the trial court though the matter is sub judice before the appellate court?” While dealing with question No.1, this Court in para 15 of the judgment has held as under:- “The refusal to invoke power under Section 320 Cr. P.C., however, does not debar the High Court from resorting to its inherent power under Section 482 Cr. P.C. and pass an appropriate order so as to secure the ends of justice.” While dealing with question No.2, this Court in paras 16, 17 and 21 of the judgment has held under:- “16 As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 CrPC 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 (2)RCR (Criminal) 910, (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 CrPC 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 CrPC 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.

XXXXXXX

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 Cr. P.C. 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.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal proceedings to continue.

In view of the same, CRA-AS-44-2017 is dismissed as having been rendered infructuous and CRA-S-3308-SB of 2012 wherein as per the custody certificate, all the appellants had undergone one year one month and eighteen days of actual sentence, the sentence of the appellants awarded by the trial Court is reduced to the period already undergone by them keeping in view the judgment of Sube Singh (supra).

Accordingly, CRM-M-8155-2017 also stands infructuous. The Registry is directed to transfer the amount of ₹40,000/- to the State of Punjab as deposited by the petitioners vide order dated 24.4.2017.

Disposed of accordingly.

(ARVIND SINGH SANGWAN)
JUDGE

February 22, 2018
arya

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No