

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

CRM-M No. 37737 of 2017

Date of Decision:-15.01.2019

Jyoti Thakur

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present:- Mr. Avtar Singh Bhatti, Advocate
for the petitioner.

Mr. Harsimar Singh Sitta, AAG, Punjab.

Mr. A.S. Barnala, Advocate for
Mr. Ranjit Singh, Advocate
for respondents No.2 and 3.

MANOJ BAJAJ J.(Oral)

Through this petition, filed under Section 482 Cr.P.C. the petitioner has prayed for quashing of Complaint No.20 dated 10.4.2012 (CIS No.298 of 2013) titled as 'Gurdial Singh vs. Jyoti Thakur', under Sections 420, 467, 468, 471 and 409 IPC, filed in the Court of Sub Divisional Judicial Magistrate, Dasuya, District Hoshiarpur, and the proceedings arising therefrom on the basis of compromise dated 29.9.2017 (Annexure P-4) entered into between the parties, including the judgment of conviction and order of sentence dated 09.2.2017 passed by learned Judicial Magistrate 1st Class, Dasuya (Annexure P-2) whereby the petitioner has

been convicted and sentenced as under :-

<i>U/Sec.</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default R.I.</i>
467 IPC	3 year	₹1000/-	30 days
468 IPC	3 years	₹1000/-	30 days
471 IPC	2 years	₹500/-	30 days

All the sentences were ordered to be run concurrently.

Vide order dated 09.10.2017, the parties were directed to appear before the trial Court for recording of their statements and report was sought regarding compromise.

In deference to the said order, a report dated 07.12.2017 submitted by the Judicial Magistrate 1st Class, Dasuya, reveals that as per statements made by the parties in the Court, they have voluntarily entered into a compromise and the Court is satisfied that the said settlement is without any fear, pressure, threat or coercion and out of their free will.

Learned counsel for respondents No.2 and 3 has also fairly conceded the factum of compromise entered into between the parties. He has submitted that the compromise effected between the parties is genuine and without any pressure or coercion.

Learned State counsel also does not dispute the factum of compromise between the parties.

I have heard learned counsel for the parties and perused the case file.

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 entered into a compromise, the High Court is vested unparalleled 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 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 the observation that it will be a starting point in maintaining peace between the parties, such offence can be compounded.*

Since the parties have settled the dispute and decided to live in peace, therefore, no meaningful purpose would be served in allowing the

criminal proceedings to continue.

In view of the above, present petition succeeds. Consequently, the impugned judgment of conviction and order of sentence dated 09.2.2017 passed by the Judicial Magistrate 1st Class, Dasuya, are set aside and the Complaint No.20 dated 10.4.2012 (CIS No.298 of 2013) titled as 'Gurdial Singh vs. Jyoti Thakur', under Sections 420, 467, 468, 471 and 409 IPC, filed in the Court of Sub Divisional Judicial Magistrate, Dasuya, District Hoshiarpur and all subsequent proceedings arising therefrom are quashed, on the basis of compromise dated 29.9.2017 (Annexure P-4).

The appeal preferred by the petitioner against the aforesaid judgment of conviction and order of sentence is rendered infructuous and shall be declared so by the first Appellate Court.

Disposed off.

January 15, 2019
Vijay Asija

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No