

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

**CRM No. 39324 of 2021 in/and
CRM-M No. 11182 of 2019 (O&M)
Date of Decision: 01.12.2021**

Vikas

..... Petitioner

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. H.R. Bhardwaj, Advocate
for the petitioner.

Mr. Pradeep Prakash Chahar, Deputy Advocate General, Haryana

SURESHWAR THAKUR, J. (ORAL)

CRM No. 39324 of 2021

1. Application is allowed.
2. With the consent of the learned counsel for parties, the date of hearing of the main case is preponed from 07.01.2022 to today, and, the same is taken up today itself.

MAIN CASE

1. The accused faced trial for charges drawn under Sections 406, 420 and 427 of the IPC. The learned Judicial Magistrate First Class, Panipat, upon CIS No. 851 of 2015, proceeded to, vis-a-vis, the afore drawn against the accused made a verdict of conviction, upon them, and, also proceeded to impose, upon the convict, sentence of rigorous imprisonment extending upto period of one year and, also imposed a fine of Rs. 500/-, and, further ordered that upon default of payment of fine, the convict shall undergo rigorous imprisonment for a period of three months.

2. The afore drawn verdict of conviction and consequent therewith sentences (supra), as made upon the convict, became appealed by the latter, before the learned Sessions Judge, Panipat. The apposite appeal was assigned CRA No. 104 of 2016. However, during the pendency of the afore appeal before the learned Additional Sessions Judge, Panipat, the petitioner rather accesses this Court, through his casting a petition under the provisions of Section 482 Cr.P.C., hence seeking relief that all the consequential proceedings, as arise, from FIR No. 332 of 05.05.2012, lodged with Police Station Model Town, Panipat, constituting therein offences embodied in Section 406, 420, 427 of the IPC, be quashed and set aside, pointedly on anvil of the apposite compromise drawn between the complainant, and, the accused. The compromise is enclosed with the petition as Annexure P/5.

3. This Court through an order made on 10.02.2020 had directed the learned Illaqa Magistrate, to make a report to this Court, with respect to the voluntariness and genuineness of the afore compromise, as, became drawn amongst the complainant, and, the accused. The Illaqa Magistrate concerned, after recording the statements of the accused, and, of the respondents, has proceeded to make a report, to this Court, that the afore drawn compromise amongst them, is with their free will and consent, and also is without any fear, threat, and pressure being entered upon each other.

4. The learned State Counsel submits, that the mandate of Section 482 Cr.P.C. cannot be recoured after a verdict of conviction, being drawn by the learned Magistrate concerned against the convict, moreso when the latters appeal thereagainst is subjudice before the learned Sessions Judge,

Panipat.

5. However, the afore made submission is denuded of its vigour, in the face of a verdict rendered by the Hon'ble Apex Court, upon, **Criminal Appeal No. 1489 of 2012**, titled as “**Ram Gopal and another Vs. State of Madhya Pradesh**”. In the afore judgment (supra), the Hon'ble Apex Court became seized with a factual matrix, similar to the one, as exists before this Court, inasmuch as, after pronouncement of a verdict of conviction, by the learned trial Court concerned, upon the accused-convicts therein, theirs appealing there against before the learned Appellate Court concerned. Pointedly, during the pendency of an appeal made by the convicts, before the learned Appellate Court concerned, a compromise occurred amongst the complainant, and, the accused concerned. Though, the first Appellate Court, in verdict (supra) took into consideration, the settlement which occurred inter se accused and the complainant. However, the learned Appellate Court concerned, came to an opinion that one amongst the offences, inasmuch as the one under Section 326 of the IPC was non-compoundable, rather within the ambit of Section 320 of Cr.P.C. Therefore, it came to a conclusion, that the compromise cannot be taken into consideration, for its making a valid order of composition.

6. In a criminal revision petition, becoming preferred by the aggrieved, before the High Court of Madhya Pradesh Gwalior Bench, a similar view was taken by the Hon'ble High Court concerned. Consequently, the aggrieved were led to motion the Hon'ble Apex Court, through their respectively instituting Criminal Appeal No. 1489 of 2012, and, Criminal Appeal No. 1488 of 2012 before the Hon'ble Apex Court.

verdict rendered thereons on 29.09.2021. The Hon'ble Apex Court has made in paragraphs 19 & 20 thereof, paras whereof become extracted hereinafter, certain germane to the instant petition hence expostulations of law. A deepest reading of the hereinafter extracted paragraphs makes evidently clear, that even when some of the offences are declared non-compoundable, within the ambit of Section 320 Cr.P.C. Nonetheless, the plenitude, and, the amplitude of powers vested under Section 482 Cr.P.C., in the High Courts or the powers vested to Hon'ble Apex Court, under Article 142 Constitution of India, cannot yet become fitted, as, powers (supra), can yet be exercised beyond the ambit, and, frontiers of Section 320 Cr.P.C. Conspicuously, when an ad idem settlement occurs, and, when the judicially mandated exceptions to the exercise of powers (supra) are not surfacing. Therefore, the Hon'ble Apex Court concluded, that even if one of the offences in respect whereof, a verdict of conviction is handed, upon the accused-convicts, relates to non-compoundable offence, hence within the domain of Section 320 of Cr.P.C. However, and, reiteratedly the width of the plenary jurisdiction, vested in the High Courts under Section 482 Cr.P.C., can still be invoked, if the accused and the complainant enter, into a valid ad idem settlement, wherethrough they make an endeavour, to quash the criminal proceedings, which are yet pending before any Criminal Court of competent jurisdiction.

19. We thus sum up and hold that as opposed to Section 320 Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C. or vested in this Court under

Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

20. *Having appraised the aforestated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:*

Firstly, *the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;*

Secondly, *the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;*

Thirdly, *given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;*

Fourthly, *the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);*

Fifthly, *the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;*

Sixthly, *since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any illwill and have no vengeance against each other; and*

Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age. ”

7. However, the relevant parameters, for the High Courts, hence proceeding to invoke the jurisdiction vested in them under Section 482 Cr.P.C., even when some of the offences, in respect whereof a verdict of conviction is handed by the Magisterial Court concerned, are non-compoundable, hence are enshrined in paragraph 20.

8. Bearing in mind the hereinabove extracted paragraphs, and also bearing in mind the report, as made to this Court, by the learned Illaqa Magistrate concerned, inasmuch as it revealing that the accused and the respondents hence entering into a valid ad idem compromise, and also it being a sequel of no pressure or coercion, being exercised upon each other. Moreover, also bearing in mind, that the purported alleged embezzlement of funds, as made by the convict, does not occur, from the Government treasury concerned, rather arises from alleged derelict conduct of the accused, while his serving in a private concern. Therefore, this Court deems it fit, to, after bearing all in mind the relevant parameters, enshrined in the relevant paragraphs carried in verdict (supra), to accept the settlement arrived at inter se the accused, and the complainant, de hors the fact that may be one of the charged offence, is non-compoundable.

9. At this stage, the learned State Counsel, submits before this Court, that since the offences in respect whereof, the charge was drawn against the convict, and also a verdict of conviction, became handed upon

with the leave of the Court. Therefore, the judgment (supra) which appertains to exercise of jurisdiction by this Court through its recouring the mandate of Section 482 Cr.P.C., to hence quash an FIR or criminal proceedings, even of some of the offences, are not non-compoundable, cannot be hence applied, to the present case, as none of the charged offences is non-compoundable.

10. Therefore, the petition is disposed of with a direction to the petitioners to make a motion before the learned Sessions Judge, Panipat, on the basis of a valid ad idem settlement, hence, occurring amongst them, with respect to compoundable offences, for seeking hence his leave, for his making an order of composition thereons, and, thereafter his proceeding, to accordingly dispose of criminal appeal (supra), as is pending before him.

11. The learned Sessions Judge concerned, is directed to, within two weeks hereinafter, ensure the respective appearances, for the purpose (supra) hence before him, of the accused, and, of the complainant.

December 01, 2021

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(SURESHWAR THAKUR)
JUDGE

<i>Whether Speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes</i>