

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

Date of decision : 15.11.2021

1.

CRA-S-2427-2019(O&M)

Ankush Tiwari

... Petitioner

Versus

State of Punjab and another

... Respondents

2.

CRA-S-2521-2019(O&M)

Sunny

... Petitioner

Versus

State of Punjab and another

... Respondent

3.

CRA-S-3244-2019(O&M)

Varun Katoch

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Prateek Pandit, Advocate
for the petitioners.

Mr.Karanbir Singh, AAG, Punjab.

Mr.Barjinder Singh, Advocate
for respondent no.2-complainant.

VIKAS BAHL, J.(ORAL)

CRM-8845-2020 in CRA-S-2427-2019, CRM-8947-2020 in CRA-S-2521-2019, and CRM-38472-2021 in CRA-S-3244-2019

These applications under Section 482 Cr.P.C. are for impleading the complainant Jodhvir Singh @ Yodhvir Singh son of Rajpal as respondent no.2 in the present appeals.

Notice in the applications.

Mr.Karanbir Singh, AAG, Punjab, appears and accepts notice. He has stated that he has no objection if the applications are allowed.

In view of the reasons mentioned in the applications and no objection given by the learned State counsel, the applications are allowed and Jodhvir Singh @ Yodhvir Singh son of Rajpal is impleaded as respondent no.2 in all the three appeals, respectively. Amended memo of parties is taken on record in each case.

Main cases

This order will dispose of the aforesaid three appeals, i.e. CRA-S-2427-2019 filed by appellant Ankush Tiwari, CRA-S-2521-2019 filed by appellant Sunny and CRA-S-3244-2019 filed by appellant Varun Katoch against the judgment dated 06.08.2019 and order dated 09.08.2019 vide which all the accused-appellants were convicted and sentenced as under:-

“Convict Varun Katoch

Sr.No.	Offence	Sentence
1	Section 326 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.10,000/-, in default of which to further undergo simple imprisonment for 4 months.

Sr.No.	Offence	Sentence
2	Section 324 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default of which to further undergo simple imprisonment for 2 months.
3	Section 323 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 6 months and to pay a fine of Rs.3,000/-, in default of which to further undergo simple imprisonment for 1 month.
4	Section 148 of Indian Penal Code	To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default of which to further undergo simple imprisonment for 2 months.

Convict Ankush Tiwari

Sr.No.	Offence	Sentence
1	Section 326 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.10,000/-, in default of which to further undergo simple imprisonment for 4 months.
2	Section 324 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default of which to further undergo simple imprisonment for 2 months.
3	Section 323 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 6 months and to pay a fine of Rs.3,000/-, in default of which to further undergo simple imprisonment for 1 month.
4	Section 148 of Indian Penal Code	To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default of which to further undergo simple imprisonment for 2 months.

Convict Sunny

Sr.No.	Offence	Sentence
1	Section 326 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 5 years and to pay a fine of Rs.10,000/-, in default of which to further undergo simple imprisonment for 4 months.
2	Section 324 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default of which to further undergo simple imprisonment for 2 months.

Sr.No.	Offence	Sentence
3	Section 323 read with Section 149 of Indian Penal Code	To undergo rigorous imprisonment for a period of 6 months and to pay a fine of Rs.3,000/-, in default of which to further undergo simple imprisonment for 1 month.
4	Section 148 of Indian Penal Code	To undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default of which to further undergo simple imprisonment for 2 months.

All the sentences shall run concurrently. The period of detention already undergone by the convicts during the course of investigation / trial shall be set off against their sentence of imprisonment. Case property, if any, be disposed of as per rules. File be consigned to the Record Room.”

Brief facts of the present case are that an FIR bearing no.193 dated 31.12.2015 was registered under Sections 323, 324, 326, 307, 148, 149 of the Indian Penal Code (in short “IPC”) at Police Station Adampur, Jalandhar, on the statement of Jodhvir Singh, who had received injuries at the hands of the present accused-appellants and also one Gurbinder Singh @ Lalli, who has since been declared as proclaimed offender. The trial Court after considering the entire evidence had come to the conclusion that the offence under Section 307 read with Section 149 IPC was not made out against the present appellants and they were acquitted of the charges under Section 307 read with Section 149 IPC. It was noticed in paragraph 22 of the trial Court judgment that as per the medical opinion, none of the three doctors, i.e. PW-1 Dr.A.S.Duggal, PW-5 Dr.NK Duggal and PW-10 Dr.Monika Bhatia had declared any of the injuries as dangerous to life or having been inflicted with such knowledge or intention and under such circumstances, if by the same, they would have caused the death of the injured person-Jodhvir Singh, then they would have been guilty of murder.

The appellants, thus, have been convicted and sentenced of the offences as have been detailed hereinabove.

That during the pendency of the present appeals, three separate applications have been moved in three separate appeals for placing on record the compromise by way of affidavit of the complainant with each one of the accused. CRM-8846-2020 has been filed in CRA-S-2427-2019 for placing on record the compromise by way of affidavit (Annexure A-1) with respect to appellant Ankush Tiwari. The said affidavit is reproduced as under:-

“I, Jodhvir Singh son of Raj Pal resident of village Adampur Tehsil and District Jalandhar, do hereby solemnly state and affirm as under:-

1. That I have got registered case FIR No.193 dated 31.12.2015 under section 323, 324, 326, 307, 148, 149 IPC at P.S. Adampur District Jalandhar against Varun Katoch son of Adarsh Kumar, Sunny son of Davinder Kumar and Ankush Tiwari son of Rakesh Kumar and on the basis of this FIR all the above said accused have been arrested and later on the challan had been presented before the Ld. Trial Court and the Ld. Court of Sh.Parminster Singh Grewal, Addl.Sessions Judge, Jalandhar, has pleased to convict all the accused vide its judgment dated 6.08.2019 as the accused Ankush Tiwari son of Rakesh Kumar and complainant belonging to same village as such the compromise has been effected between the parties with the intervention of respectable which is as under:-

i) As both the parties to the compromise i.e. the deponent and father of the accused Ankush Tiwari namely Rakesh Kumar son of Mahesh Dutt R/o Alawalpur District Jalandhar on behalf of the accused Ankush Tiwari, have patched up the matter and the

deponent do not want to pursue with the present FIR against accused Ankush Tiwari.

ii) Since both the parties to the compromise are the residents of same village and keeping in view the brotherhood in the village they do not want keep an enmity against each other.

iii) The deponent shall have no objection if the bail application of the accused Ankush Tiwari is allowed, in the light of the compromise and further undertakes that he will give appropriate statement for the grant of the bail in his favour.

iv) The deponent also undertakes that he shall be bound to get the above said case quashed or cancelled by making appropriate statement before the concerned authorities as well as before the concerned court including the Hon'ble High Court with regard to the accused Ankush Tiwari.

v) The deponent shall have no objection if the above said accused namely Ankush Tiwari is acquitted and discharged by the Hon'ble Court.

2. That I have executed this affidavit with my own free sweet will and without any undue pressure, threat or coercion from any corner in any manner whatsoever.

Sd/-Deponent

Verification:

Verified that the contents of the above affidavit are true and correct to the best of my knowledge and nothing has been concealed therein.

Verified at Jalandhar on 14.12.2019.

Sd/-Deponent

sd/- Paramjit Kaur (Mother of Ankush Tiwari) ”

CRM-8948-2020 has been filed in CRA-S-2521-2019 for

respect to appellant Sunny. The said affidavit is reproduced hereinunder:-

“I, Jodhvir Singh son of Raj Pal resident of village Adampur Tehsil and District Jalandhar, do hereby solemnly state and affirm as under:-

1. That I being complainant got registered an FIR No.193 dated 31.12.2015 under section 323, 324, 326, 307, 148, 149 IPC at P.S. Adampur District Jalandhar in which accused Varun Katoch, Sunny and Ankush Tiwari were arrested. After trial the Hon'ble Court of Sh.P.S. Grewal, Addl.Sessions Judge, Jalandhar has convicted the accused Varun Katoch, Sunny and Ankush Tiwari vide its judgment dated 6.8.2019.

2. That now with the intervention of the respectable from both the parties, the compromise has been effected between deponent and Sunny son of Davinder Kumar resident of House No.28, ward No.8, Alawalpur, Jalandhar, on the following terms and conditions:-

(a) That both the deponent and Sunny son of Davinder Kumar are the resident of same locality and in order to avoid future anonymity between each other and to restore the peace and love between each other, the deponent is ready to effect the compromise with Sunny son of Davinder Kumar. And deponent being complainant has no objection if Sunny be acquitted from the above said FIR by the Hon'ble Punjab and Haryana High Court. And further deponent undertake to suffer his statement before any court of law in respect to the present compromise arrived between deponent and Sunny.

(b) That in future Sunny son of Davinder Kumar will not initiate any litigation against the deponent with respect to the matter in controversy. And this undertaking has signed by Davinder Kumar son of Dev Mitter who is father of Sunny.

(c) That this compromise in the shape of affidavit has

been executed with free will and without any kind of pressure, threat or coercion from any side. Both the parties to the compromise are bound to comply with the same.

Sd/-Deponent

Verification:

Verified that the contents of the above affidavit are true and correct to the best of my knowledge and nothing has been concealed therein.

Verified at Jalandhar on 10.12.2019.

Sd/-Deponent”

CRM-38473-2021 has been filed in CRA-S-3244-2019 for placing on record the compromise by way of affidavit of complainant with respect to appellant Varun Katoch. The said affidavit is reproduced hereinunder:-

“I, Jodhvir Singh son of Sh.Raj Pal resident of village Adampur Tehsil & District Jalandhar, Punjab, do hereby solemnly declare and affirm as under:-

1. That I being complainant got registered an FIR bearing No.193 dated 31.12.2015 u/s 323, 324, 326, 307, 148, 149 IPC at P.S. Adampur Distt. Jalandhar in which accused Varun Katoch, Sunny and Ankush Tiwari were arrested. After trial Hon'ble Court of Sh.P.S. Grewal, Addl. Sessions Judge, Jalandhar has convicted the accused Varun Katoch, Sunny and Ankush Tiwari vide its judgment dated 06.08.2019.

2. That now with the intervention of the respectables from both the parties, the compromise has been effected between deponent and Varun Katoch son of Adarsh Kumar resident of House No.574, Guru Gobind Singh Avenue near Trinity College, Jalandhar, on the following terms and conditions:-

(a) That both the deponent and Varun Katoch son of

Adarsh Kumar are the resident of same locality and they are childhood friends and in order to avoid future enmity between each other and to restore the peace and love between each other, the deponent is ready to effect the compromise with Varun Katoch son of Adarsh Kumar. And deponent being complainant has no objection if Varun Katoch be acquitted from the above said FIR by the Hon'ble Punjab and Haryana High Court and further deponent undertake to suffer his statement before any court of law in respect to the present compromise arrived between deponent and Sunny.

(b) That in future Varun Katoch son of Adarsh Kumar will not initiate any litigation against the deponent with respect to the matter in controversy. And this undertaking has signed by Mamta Devi wife of late Adarsh Kumar who is the mother of Varun Katoch.

(c) That this compromise in the shape of affidavit has been executed with free will and without any kind of pressure, threat or coercion from any side. Both the parties to the compromise are bound to comply with the same.

Sd/-Jodhvir Singh DEPONENT

Verification:

Verified that above facts are true to the best of my knowledge and nothing has been concealed therein.

Verified at Jalandhar.

Dated: Sd/-Jodhvir Singh DEPONENT

<i>Attested as identified</i>	<i>Seal notary</i>
<i>Notary Jalandhar</i>	<i>Govt. of India</i>
<i>Punjab, India</i>	<i>Suraj Parkash Advocate</i>
<i>21 March, 2020</i>	<i>Reg.No.4073, Jalandahr, Pb."</i>

A perusal of the above affidavits would show that the complainant Jodhvir Singh @ Yodhveer Singh has specifically stated that

complainant has no objection in case the accused-appellants are acquitted and discharged and the FIR registered against them is quashed or cancelled.

Learned counsel for the petitioners has submitted that the compromise is genuine and bonafide and has referred to the judgment of a Co-ordinate Bench of this Court in ***CRM-M-17272-2015 dated 28.01.2016*** titled as “***Ram Parkash and others Vs. State of Punjab and others***” to contend that under similar circumstances, the petition under Section 482 Cr.P.C. was entertained and the FIR with all subsequent proceedings was quashed and even the judgment of conviction was set aside on the basis of compromise.

Learned counsel for the petitioners has also relied upon the latest judgment dated 29.09.2021 of the Hon'ble Supreme Court of India in ***Criminal Appeal no.1489 of 2012*** titled as “***Ramgopal & Anr. vs. The State of Madhya Pradesh***” and connected matter and has prayed that the present petition be allowed.

Learned counsel for the complainant has submitted that the compromise is genuine and bonafide and has been entered into without any coercion, undue influence and pressure and would help in bringing out peace and harmony between the families of the complainant and the appellants. He prayed that the present appeals be allowed.

This Court has heard learned counsel for the parties.

The Hon'ble Supreme Court of India in ***Ramgopal and Anr.'s*** case (supra) has discussed in detail the power of the High Court under Section 482 Cr.P.C. along with other issues. The relevant portion of said judgment is reproduced hereinbelow:-

“2. The prosecution version, arising out of FIR dated 3rd November 2000, Police Station Ambah, Morena, M.P. is

that on account of certain monetary dispute, the Appellants abused and assaulted Padam Singh (Complainant). Appellant No.1 is alleged to have struck the Complainant with a pharsa , which resultantly cut off the little finger of his left hand. Appellant No.2 also struck lathi blows on the body of the Complainant. Appellants were thereafter committed for trial under Sections 294, 323 and 326 read with 34 of Indian Penal Code, 1860 (hereinafter, 'IPC') and Section 3 of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes) Act, 1989. Upon analyzing the evidence, the Learned Judicial Magistrate(FC), Ambah, convicted the Appellants under Sections 294, 323 and 326 read with 34 IPC with a maximum sentence of three years under Section 326 read with 34 IPC.

xxx

xxx

xxx

12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section 482 Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form

of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra).

xxx xxx xxx

19. We thus sumup 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.”

A perusal of the abovesaid judgment would show that it has been held that the extra ordinary power enjoined upon a High Court under Section 482 Cr.P.C., can be invoked beyond the metes and bounds of Section 320 Cr.P.C. It has further been observed that criminal proceedings involving non heinous offences can be annulled irrespective of the fact that trial has already been concluded and appeal stands dismissed against conviction and that handing out punishment is not the sole form of delivering justice. Thus, it goes without saying, that the cases where compromise is struck post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident.

A Coordinate Bench of this Court in ***Ram Parkash's*** case (*supra*), has allowed a case under similar circumstances. The relevant portion of the said judgment is reproduced hereinbelow:

“Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC(subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar, on the basis of compromise dated 06.02.2015(Annexure P-4) and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar,

whereby the accused-petitioners, were convicted and sentenced...

xxx—xxx--xxx

Quashing of the aforesaid FIR and setting aside of the impugned judgment and order of sentence dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, is sought on the basis of compromise dated 06.02.2015 (Annexure P-4), entered into between the parties during the pendency of the appeal before this Court.

xxx--xxx--xxx

*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 unparallel 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 sodeclared 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.*

xxx—xxx--xxx

Accordingly, FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC(subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar and all subsequent proceedings arising therefrom, qua the accused petitioners, are quashed, on the basis of compromise dated 06.02.2015 (Annexure P-4), subject to payment of costs of Rs.25,000/-, to be deposited with the Punjab State Legal Services Authority, Chandigarh.

Consequently, the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, are set aside subject to payment of cost.”

This Court in a judgment dated 09.03.2017 passed in CRR no.390 of 2017 titled as “**Kuldeep Singh vs. Vijay Kumar and another**” has held as under:-

*“Reliance can be placed on **Kaushalya Devi Massand vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298 and Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097.** The revisional*

jurisdiction of the High Court in terms of Section 401 Cr.P.C. would result in bringing about ends of justice between the parties in the event of finding that the compromise is genuine, bonafide and free from any undue influence.

The compromise in question would serve as a everlasting tool in favour of the parties for which indulgence can be given by this Court. The revisional exercise would also be in consonance with the spirit of Section 147 of Negotiable Instruments Act.

*The principle as laid down in **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097**, would be squarely fortified if the compromise in question is allowed to be effected between the parties with leave of the Court.*

In view of aforesaid, impugned judgment dated 19.01.2017 passed by Additional Sessions Judge, Sri Muktsar Sahib vide which conviction and sentence of the petitioner was upheld stands quashed.

*The revision petition is allowed subject to deposit of 15% of the cheque amount as per ratio laid down in **Damodar S. Prabhu's case (supra)** to State Legal Services Authority, failing which this order will be of no consequence. Necessary consequences to follow.”*

Reliance in the above said judgment was also placed upon the judgment of the Hon'ble Supreme Court in **Damodar S. Prabhu's case (supra)** and thus, as per settled law, this Court has the power to set aside the judgment of conviction against the petitioner on the basis of a valid compromise. The compromise in the present case is genuine and valid.

Keeping in view the law laid down in the above said judgment, more so, the judgment of the Hon'ble Supreme Court in **Ramgopal & Anr's**

said judgment, would be considered by this Court. Firstly, the occurrence which has been involved in the present petition can be categorized as purely personal / criminal act of private nature. Secondly, the injuries which have been caused are not dangerous to life and do not appear to exhibit an element of mental depravity or commission of an offence of such a serious nature, that acquittal of such like cases would override public interest. Thirdly, in view of the injuries and the offence, it would be immaterial that the petitioners have been convicted by the Additional Sessions Judge. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily. Fifthly, the occurrence took place in the year 2015 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the appellants are residents of the same/adjoining area where the complainant Jodhvir Singh @ Yodhveer Singh resides and thus, the compromise would bring peace and harmony among the parties. Seventhly, the object of administration of the criminal justice system would remain unaffected on acceptance of the said amicable settlement between the parties and /or resultant acquittal of the petitioners.

Thus, keeping in view the above said facts and circumstances, the present three appeals are allowed and the judgment of conviction dated 06.08.2019 as well as the order awarding sentence dated 09.08.2019 are set aside and the appellants are acquitted.

Since the main appeals are decided, no order is required to be passed in the pending miscellaneous applications, if any, and the same are disposed of.

November 15, 2021

Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No