

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

(242)

CRM-M-50422-2021.
Date of Decision:-22.12.2021.

Mohinder Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Gursewak Singh, Advocate for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Prabhjot Singh, Advocate for
Mr. Harnoor Singh Sidhu, Advocate for respondent No.2.

VIKAS BAHL, J. (Oral)

This is a petition filed under Section 482 of Cr.P.C. for quashing of Criminal Complaint No.129/RT/17.09.2011 dated 14.09.2011 (Annexure P-1) under Section 156(3) of Cr.P.C. filed by respondent No.2 for directing the police officials of Police Station Sadar Patiala to lodge an FIR under Sections 307, 458, 326, 323, 324, 34 of the Indian Penal Code, 1860 which was later on converted into private complaint (No.CRM-63844-2013) by the trial Court under Sections 452, 323, 324, 506 and 34 of the IPC and all the subsequent proceedings arising therefrom including judgment and order of conviction dated 28.01.2020 passed by the Judicial Magistrate Ist Class, Patiala (Annexure P-2).

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Learned counsel for the petitioners has submitted that although, initially in the complaint, offence under Section 307 of IPC was also alleged against the petitioners but the conviction was only under Sections 452, 323, 506 and 34 of the IPC by the Judicial Magistrate Ist Class, Patiala and it has been contended that now the matter has been compromised and the appeal against the said judgment of conviction is still pending. In support of his contention, he has also relied upon the **judgment dated 29.09.2021** passed by the Hon'ble Supreme Court in **Criminal Appeal No.1489 of 2012 titled Ram Gopal and another Vs. State of Madhya Pradesh.**

When this matter came up before this Court on 02.12.2021, notice of motion was issued and learned counsel for respondent No.2 had appeared and had reiterated the fact that the matter has been compromised. On the basis of the same, the report from the concerned Illaqa Magistrate/trial Court was directed to be submitted after the petitioners and respondent No.2 appear before the Illaqa Magistrate/trial Court and get their statements recorded.

In pursuance of the said order, the report has been submitted by the Judicial Magistrate Ist Class, Patiala. The relevant part of the same is reproduced hereinbelow:-

“In compliance of said order, it is further submitted that now in CRM-M-50422-2021 titled as Mohinder Singh @ Lakhveer Singh Vs. State of Punjab and Ranjit Singh”. The complainant Ranjit Singh and accused person namely Mohinder Singh and Lakhveer Singh have appeared in the Court on

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15.12.2021 and all of them got their separate statements recorded to the effect that they have entered into a compromise with the complainant Ranjit Singh, who had filed a criminal complaint against them and now they have compromised the matter amongst them and they have heard the statement of complainant Ranjit Singh and the compromise is in the benefit of the parties. They are close relations and the compromise will bury the hatchet of enmity and will help the parties in improving their relations with each other. The compromise is genuine, voluntary and without coercion or undue influence. There are total two accused persons. No one is a proclaimed offender in this case. He and his son are not involved in any other FIR. Since the present case is a complaint case, as such no Investigating Officer has been examined at any point of time, as such his statement need not be recorded to that effect. As per his version he is the only victim and there is no other victim. No other person is involved in the complaint case. The copy of the Compromise is Ex.P1.

From the aforesaid statements of the affected parties, it apparently appears that the parties have voluntarily entered into the compromise between themselves and have settled the matter amicably and said compromise appears to be genuine. Hence I am sending my aforesaid report as per the directions of Hon'ble Punjab & Haryana High Court. Certified/attested

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copies of the statements of the aforesaid persons are also annexed herewith for kind perusal.

Yours faithfully,

Dated:15.12.2021

Sd/-

*Gurbinder Singh Johal, PCS,
Judicial Magistrate Ist Class,
Patiala.”*

A perusal of the said report would show that it has been submitted that the compromise effected the parties is voluntarily and without any coercion or undue influence.

Brief facts of the present case are that in the present case respondent No.2 had filed a complaint under Section 156 (3) for directing the police officials to register an FIR against 06 persons including the present petitioner.

The Judicial Magistrate Ist Class, Patiala vide judgment dated 28.01.2020 has convicted the petitioners under Sections 452, 323, 506 read with Section 34 of IPC and had been sentenced as under:-

Under Sections	Sentence	In default
452 of the Indian Penal Code.	To undergo rigorous imprisonment for 2 years and pay a fine of Rs.5000/-	in default to undergo rigorous imprisonment for one month each
323 of the Indian Penal Code.	To undergo rigorous imprisonment for one year and pay a fine of Rs.3000/-	in default to undergo rigorous imprisonment for one month each
506 of the Indian Penal Code.	To undergo rigorous imprisonment for 6 months and to pay a fine of Rs.1000/-	in default to undergo rigorous imprisonment for one month each

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Appeal was filed by the petitioners against the same which is stated to be pending. During the pendency of the appeal, the matter has been compromised and as has been stated hereinabove, the parties have appeared before the Illaqa Magistrate and the Illaqa Magistrate has submitted its report stating that the compromise is genuine and bona fide.

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 State of Punjab has opposed the present petition for quashing and submitted that in the present case, the petitioners have already been convicted.

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

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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.

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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

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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

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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).

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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.”

A perusal of the abovesaid judgment would show that it has been held that the extra ordinary power is 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 henious offences can be annulled irrespective of the fact that

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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.

The Coordinate Bench of this Court in Ram Parkash's case (*supra*), has allowed the petition under Section 482 Cr.P.C. 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...

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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

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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.

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*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 :***

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(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.

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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.*

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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.*

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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

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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.”

A Co-ordinate Bench of 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”** as 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.*

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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 abovesaid 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 abovesaid judgment, more so, the judgment of the Hon'ble Supreme Court of India in **Ramgopal & Anr's case (supra)**, the relevant parameters for consideration as laid down by the said judgment, would be considered by this Court. Firstly, the occurrence which has been involved in the present petition can be categorized as a 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 element of mental depravity or commission of an offence of such a serious nature, that quashing the criminal proceedings 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

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the Judicial Magistrate Ist Class. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Judicial Magistrate Ist Class, Patiala. Fifthly, the occurrence took place in the year 2011 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, 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 petition is allowed and Criminal Complaint No.129/RT/17.09.2011 dated 14.09.2011 (Annexure P-1) under Section 156(3) of Cr.P.C. filed by respondent No.2 for directing the police officials of Police Station Sadar Patiala to lodge an FIR under Sections 307, 458, 326, 323, 324, 34 of the Indian Penal Code, 1860 which was later on converted into private complaint (No.CRM-63844-2013) by the trial Court under Sections 452, 323, 324, 506 and 34 of the IPC and all the subsequent proceedings arising therefrom including judgment and order of conviction dated 28.01.2020 passed by the Judicial Magistrate Ist Class, Patiala (Annexure P-2) are set aside/quashed.

(VIKAS BAHL)
JUDGE

December 22, 2021.

sandeep

Whether speaking/reasoned:-

Yes/No

Whether Reportable:-

Yes/No