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

CRM-33273-2022 in/and
CRA-S-1392-SB-2017 (O&M)
Date of decision : 12.09.2022

Lakhwinder Singh

...Appellant

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. D.S. Malwai, Advocate for the appellant.

Mr. Tarun Aggarwal, Sr. DAG, Punjab.

VIKAS BAHL, J. (ORAL)

CRM-33273-2022

This is an application filed under Section 482 of Cr.P.C. for taking up application bearing No.CRM-2228-2020 which was filed in CRA-S-1392-SB-2017 and to pass an appropriate final order.

Learned counsel for the applicant-appellant has submitted that in the present case, the matter has been compromised and even the report of the Additional Sessions Judge, Sangrur which was called for by the Coordinate Bench of this Court, has been received and as per the same, compromise has been stated to be genuine and bona fide and thus, application i.e. CRM-2228-2020 alongwith main appeal i.e. CRA-S-1392-

SB-2017 be heard and considered.

On the other hand, learned State Counsel has submitted that he has no objection in case, the main appeal alongwith abovesaid application are heard and decided today itself.

Keeping in view the abovesaid facts and circumstances, the present application is allowed and application i.e. CRM-2228-2020 alongwith main appeal i.e. CRA-S-1392-SB-2017 are taken on Board today itself for final disposal.

Main case

Challenge in the present appeal is to the judgment of conviction and order of sentence dated 23.03.2017 passed by the Additional Sessions Judge, Sangrur in Sessions Case No.7 of 26.05.2015 in case FIR No.137 dated 08.12.2014 registered under Sections 452, 459, 325, 323, 34 of the Indian Penal Code, 1860 (hereinafter to be referred as “the IPC”) at Police Station Longowal, District Sangrur.

Learned counsel for the appellant has submitted that the appellant has been convicted as under:-

“Accordingly, he is directed to undergo following sentence:

<i>Name of the convict</i>	<i>Offence</i>	<i>Sentence awarded</i>
Lakhwinder Singh	U/s 452 IPC	To undergo Rigorous Imprisonment for two years and to pay a fine of Rs.1,000/- (one thousand only) and in default of payment of fine to further undergo simple imprisonment for a period of ten days.

	U/s 325 IPC	To undergo Rigorous Imprisonment for two years and to pay a fine of Rs.1,000/- (one thousand only) and in default of payment of fine to further undergo simple imprisonment for a period of ten days.
	U/s 323 IPC	To undergo rigorous imprisonment for six months
	U/s 506 IPC	To undergo rigorous imprisonment for six months

It is hereby clarified that previous period spent in custody if any must be set off by the Jail Authorities from the substantive sentence awarded. All the sentences shall run concurrently.”

It is further submitted that one of the accused namely Sukhjinder Singh was acquitted by the Additional Sessions Judge, Sangrur and third accused namely Ranjit Kaur was released on probation. It is contended that vide order dated 07.04.2017 passed by the Coordinate Bench of this Court, the main appeal was admitted and sentence of the present appellant was suspended during the pendency of the main appeal. It is further contended that thereafter, an application i.e. CRM-2228-2020 was filed by the appellant under Section 482 of Cr.P.C. for permission to compound the offence on the basis of compromise in the said case and the Coordinate Bench of this Court, vide order dated 23.01.2020, had directed the appellant to deposit an amount of Rs.40,000/- and had also directed the parties to record the statements before the trial Court with respect to compromise. It is further submitted that on 25.02.2020, the appellant was permitted to compound the offence. It is argued that in pursuance of the said

order, the Additional Sessions Judge, Sangrur has sent its report, as per which, the compromise has been found to be genuine and entered into voluntarily. Relevant portion of the said report is reproduced hereinbelow:-

“In pursuance of the orders dated 23.01.2020 passed by Honorable High Court, in the above mentioned Criminal Miscellaneous Petition, filed by accused Lakhwinder Singh, he has produced two receipts regarding deposit of Rs.40,000/- as condition precedent for recording the statements qua compromise. Thereafter, the statements of both the parties i.e. accused Lakhwinder Singh and complainant Jagtar Singh, injured Charanjit Kaur and Amanjot Kaur (minor through her father Jagtar Singh) were recorded separately. All of them have unanimously stated that the matter has been compromised between them out of their free will and without any pressure or coercion. They have been identified by their respective Counsels. Having considered the facts and circumstances of the case, the Court is satisfied that the compromise is genuine and the parties have entered into compromise voluntarily, without any pressure, coercion, or influence. Report is accordingly submitted. The statements of parties are enclosed herewith, as desired please.

Submitted please.

*Yours faithfully,
Sd/- Dr. Rajneesh,
Additional Sessions Judge,
Sangrur (UID-PB0172)”*

Learned counsel for the appellant has submitted that a perusal of the said report would show that the compromise has been found to be genuine and thus, on the basis of the said report, the application for

compounding of offence deserves to be allowed.

Learned counsel for the appellant has further submitted that the appellant is the only person aggrieved by the impugned order as other accused have either been acquitted or have been released on probation and have not challenged the judgment. He has further relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012 (12) SCC 401**, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said appellant/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the appellant has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2015** titled as **Dalip Mandal and another Vs. State of U.T., Chandigarh and others** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

On the other hand, learned State Counsel has stated that in the present case, there were three accused persons i.e. the present appellant, Ranjit Kaur and Sukhjinder Singh. Sukhjinder Singh was acquitted of the charges framed against him and Ranjit Kaur was released on probation. It is further submitted that the appellant has been convicted under Sections 452, 325, 323 and 506 of the IPC as offence under Section 459 of the IPC had not been proved.

This Court has heard the learned counsel for the parties and has

perused the paper book.

The brief facts of the case are that FIR No.137 dated 08.12.2014 was registered under Sections 452, 459, 325, 323, 34 of the IPC at Police Station Longowal and in the said case, there were three accused persons i.e. the present appellant, Ranjit Kaur and Sukhjinder Singh. The trial Court, after considering the entire evidence, had acquitted Sukhjinder Singh and convicted Ranjit Kaur and Lakhwinder Singh under Sections 325, 323, 506 and 452 of the IPC and had acquitted them under Section 459 of the IPC. Ranjit Kaur was released on probation whereas the present appellant was sentenced as has been detailed hereinabove. The maximum sentence awarded to the appellant was two years of rigorous imprisonment. The said Ranjit Kaur has not filed any appeal and it is the present appellant who has filed the present appeal. During the pendency of the present appeal, the application i.e. CRM-2228-2020 has been filed under Section 482 of Cr.P.C. for permission to compound the offence on the basis of compromise. The detailed compromise has also been annexed as Annexure A-2 with the application. The Coordinate Bench of this Court vide order dated 23.01.2020, had directed the appellant to deposit Rs.40,000/- as pre-condition for recording the statements qua compromise and after deposit of the same, had directed the parties to record their statements before the Appellate Court and the Appellate Court was directed to submit its report to this Court. On 25.02.2020, the appellant was permitted to compound the offence. A perusal of the report submitted by the Additional Sessions Judge, Sangrur would show that an amount of Rs.40,000/- has been deposited and

the Court is satisfied that the compromise is genuine and voluntary.

The Hon'ble Supreme Court of India in its latest **judgment dated 29.09.2021 in Criminal Appeal No.1489 of 2012 titled as Ramgopal and Anr. Vs. State of Madhya Pradesh” and connected matter,** 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.

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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 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).*

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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. which 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 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 vide **judgment dated 28.01.2016 passed in CRM-M-17272-2015 titled as Ram Parkash and others Vs. State of Punjab and others**, 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 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 : (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. Nonacceptance 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.

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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 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 coordinate 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**” 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 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 is involved in the present appeal 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 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 appellant has been convicted by the Additional Sessions Judge, Sangrur. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Additional Sessions Judge, Sangrur. Fifthly, the occurrence took place in the year 2014 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the appellant as well as complainant are both residents of Mander Kalan, Tehsil Longowal, District Sangrur and are also related to each other and thus, quashing of the present proceedings 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 appellant.

This Court is of the view that since Section 452 of IPC is non-compoundable, thus, the Court, under Section 482 of Cr.P.C. and also in view of the law laid down in the abovesaid judgments, would have the power to quash the FIR qua the present appellant in view of the compromise which has been found to be genuine and bona fide.

Thus, keeping in view the abovesaid facts and circumstances, the application bearing No.CRM-2228-2020 filed under Section 482 of

Cr.P.C. is allowed and FIR No.137 dated 08.12.2014 registered under Sections 452, 459, 325, 323, 34 of the IPC at Police Station Longowal, District Sangrur as well as consequential proceedings arising therefrom are quashed qua the appellant and judgment of conviction and order of sentence dated 23.03.2017 passed by the Additional Sessions Judge, Sangrur are set aside qua the present appellant.

Accordingly, the present appeal is disposed of.

All the pending miscellaneous applications, if any, stand disposed of in view of the abovesaid judgment.

12.09.2022

Pawan

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned:- **Yes/No**

Whether reportable:- **Yes/No**