

CRM-2775-2022 &
CRM-2779-2022
in/and CRA-S-613-SB-2011

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

CRM-2775-2022 &
CRM-2779-2022
in/and CRA-S-613-SB-2011
Date of Decision: August 22, 2022

Satinder Singh and another

...Appellants

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Inderjit Sharma, Advocate,
for the applicant-appellants.

Mr. J.S. Arora, Deputy Advocate General, Punjab,
for respondent No. 1 – State.

Mr. Amit Kumar, Advocate,
for respondent Nos. 2 and 3 – Complainants.

SANJAY VASHISTH, J.

1. Issue involved in the present case is that once matter has been considered after appreciation of evidence by the learned trial Court and appeal against the same is pending before Appellate Court, whether proceedings can be quashed/finished on the basis of compromise amongst all the parties to *lis*.

2. Facts in brief are that assailing the judgment of conviction and order of sentence, dated 05.02.2011, passed by learned Additional Sessions

Judge, Gurdaspur, in FIR No. 93, dated 24.10.2011, under Sections 307, 326, 324 and 34 IPC, Police Station Kahnuwan, District Gurdaspur, appellant No. 1 - Satinder Singh and appellant No. 2 - Iqbal Singh, preferred Criminal Appeal bearing No. CRA-S-613-SB-2011.

3. On the statement made by complainant – Gurdarshan Singh, aforementioned FIR was registered against Ram Singh son of Bishan Singh (Accused No. 1), Iqbal Singh son of Ram Singh (Accused No. 2) and Satinder Singh son of Ram Singh (Accused No.3), who faced trial for the charges under Sections 307, 326, 324 and 34 IPC. After conclusion of the trial, complete evidence was scanned by learned trial Court and found that case qua Ram Singh (Accused No. 1) is not proved and resultantly finding of acquittal has been recorded qua him.

4. Learned trial Court also held that ingredients constituting an offence under Section 307 IPC are completely missing, therefore, the other two accused (Iqbal Singh and Satinder Singh) were acquitted under Section 307 IPC. However, both of them were held guilty for the offences punishable under Sections 326, 324 and 34 IPC and ordered to undergo following sentence:-

Name of Accused	Under Section	Sentence (R.I.)	Fine (in Rs.)	In Default
Iqbal Singh	326 read with 34 IPC	RI for 2 years	2000/-	RI for 2 months
	324 IPC	RI for 1 year	1000/-	RI for 1 month
Satinder Singh	326 IPC	RI for 2 years	2000/-	RI for 2 months
	324 read with	RI for 1 year	1000/-	RI for 1 month

	34 IPC			
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5. The period of detention already undergone during inquiry, investigation and trial was ordered to be set off against the period of sentence.

6. Vide separate order dated 05.02.2011, learned trial Court suspended the sentence till 05.03.2011 enabling the convicts/appellants to prefer an appeal before this Court. Hence, this appeal.

7. Appeal was admitted and sentence of imprisonment of the appellants was suspended by this Court, vide order dated 04.03.2011. It has also come on record that the appellants have already deposited the fine.

8. During pendency of the appeal, appellants – Satinder Singh and Iqbal Singh, filed criminal miscellaneous application No. CRM-2781-2022, for impleading the family of complainant – Gurdarshan Singh (since deceased), namely, Amarjit Kaur (wife) and Lakhwinder Singh (son), which was allowed vide order dated 29.03.2022. Another application bearing No. CRM-2775-2022, under Section 482 Cr.P.C., was filed for hearing of the appeal on the ground that compromise dated 21.12.2021 has been arrived at amongst the appellants and complainant party. The appellants also filed CRM-2779-2022, under Section 320 read with Section 482 Cr.P.C., seeking permission to compound the offences under Section 326, 324 and 34 IPC, during pendency of appeal, on the basis of compromise dated 21.12.2021. Prayer clause of the said application reads as under:-

“ It is therefore, respectfully prayed that this application under Section 320 read with Section 482 of the Code of Criminal Procedure, 1973 for seeking permission to compound the offences under Section 326, 324, 34 of the India (Indian?) Penal Code, 1860 may please be allowed during the pendency of above noted CRA No. 613-SB of 2011 on the basis of compromise dated 21.12.2021 and to list the appeal for final hearing and dispose the same accordingly in the interest of justice.”

9. On 04.05.2022, a co-ordinate Bench of this Court, directed the parties to make their respective statements before the Illaqa Magistrate/Trial Court. Order dated 04.05.2022 reads as under:-

“ Learned counsel for the applicants-appellants submits that the matter has been compromised amicably amongst the parties.

Learned State counsel does not raise any serious objection to the submission made by the learned counsel for the applicants-appellants.

Mr. Amit Kumar, Advocate appears and files his power of attorney on behalf of the respondents No.2 and 3 and admits the execution of compromise amongst the parties.

The parties are directed to appear before the Illaqa Magistrate/Trial Court on 23.05.2022 or any other date convenient to the Court for recording their statements as to genuineness of the compromise executed between the parties.

The Illaqa Magistrate/trial Court is directed to submit a report along with copies of statements of parties on or before the next date of hearing containing the following information as well:-

- (i) Number of persons arrayed as accused/convicts in FIR;*
- (ii) Whether any accused is proclaimed offender;*
- (iii) The stage of trial/proceedings;*

- (iv) *Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*
- (v) *Whether the compromise has been effected with all the accused persons/convict and with all the complainant(s)/injured.*

To come up for further consideration on 22.08.2022.

Response, if any, may also be filed by the State on or before the adjourned date.”

10. In compliance of the said order respective parties, i.e., Satinder Singh and Iqbal Singh (appellants) and Amarjit Kaur & Lakhwinder Singh (from victim side), did appear before learned Judicial Magistrate Ist Class, Gurdaspur, on 23.05.2022 and got recorded their respective statements.

11. Learned Magistrate by recording his satisfaction, prepared a detailed report, in compliance of the order dated 04.05.2022, and forwarded the report vide Memo. No. 337, dated 07.06.2022. Relevant portion of the said report reads as under:-

“ An order dated 04.05.2022 passed by Hon’ble Punjab and Haryana High Court wherein the parties were directed to appear before Trial court/Illaq Magistrate for recording the statement with regard to the compromise. In compliance of an order dated 04.05.2022 the respondents as well as accused persons/petitioners appeared before me on 23.05.2022. Complainants/respondents Amarjit Kaur wife of Gurdarshan Singh and Lakhwinder Singh son of Gurbaksh Singh have suffered their statement that with the intervention of respectables, they have compromised with the accused persons namely Satinder Singh S/o Ram Singh and Iqbal Singh S/o Ram, both R/o Bhattian, Police Station Kahnuwan, District Gurdaspur in respect of case FIR No. 93 dated 24.10.2001, under sections 307/326/324/34 of IPC Police Station

Kahnuwan, which was got registered by Complainant Gurdarshan Singh, who is the husband of respondent No. 2 and father of respondent No. 3 against the accused Ram Singh, Satinder Singh and Iqbal Singh at police station Kahnuwan, District Gurdaspur and further stated that Ram Singh was acquitted, Satinder Singh and Iqbal Singh was convicted by the trial Court. In the above said FIR no accused declared Proclaimed Offender. The compromise has been effected between them without any pressure, coercion and undue influence. Further stated that they have no objection if the present FIR is quashed qua the accused persons/petitioners.

Petitioners/accused persons namely Satinder Singh S/o Ram Singh and Iqbal Singh S/o Ram, both R/o Bhattian, Police Station Kahnuwan, District Gurdaspur have suffered their statement that with the intervention of respectables, they have compromise the matter respondent No. 2 and 3 in FIR No. 93 dated 24.10.2001, under sections 307/326/324/34 of IPC Police Station Kahnuwan. The compromise arrived between them is with free consent and without any pressure from any corner. No other case is pending between them. Further stated that no accused declared Proclaimed Offender in the above said FIR. Further stated that they have voluntarily made this statement, without any pressure, before this Learned court.

From the statement of respondents and accused persons/petitioners, it is found that statements have been given voluntarily and without any coercion or undue influence. Both the parties have appeared and made their statement in support of compromise. It is pertinent to mention here that the above said FIR has been registered against Ram Singh S/o Bishan Singh, Satinder Singh S/o Ram Singh and Iqbal Singh S/o Ram, but in the above said FIR only Satinder Singh and Iqbal Singh were convicted, Ram Singh was acquitted by the Ld. Trial Court. No accused declared Proclaimed Offender/absconder in the present FIR. It is humbly submitted that the trial was complete before the Ld. Trial Court. It is pertinent to mention here that in the above said FIR which was got registered by Gurdarshan Singh, who was died and the compromise has been effected between accused/petitioners Satinder Singh and Iqbal Singh with the wife of Gurdarshan Singh i.e. Amarjit Kaur and Son of Gurdarshan Singh i.e. Lakhwinder Singh. The Compromise appears genuine, voluntary and out of free will of the parties.

It is further submitted that respondents has no objection if the present FIR is quashed against the petitioners.”

12. From a bare perusal of the said report it is evident that both the parties appeared before learned Magistrate and supported compromise dated 21.12.2021. Learned Magistrate also recorded his satisfaction that “*the compromise appears genuine, voluntary and out of free will of the parties*”. It is further reported that respondent Nos. 2 and 3 have no objection if the FIR is quashed against the appellants.

13. This is how, the matter has been taken up for its final conclusion.

14. Learned counsel for the appellants has confined his submission for compounding the sentence for the reason that a compromise dated 21.12.2021, has been arrived at between the appellants and the family members of the complainant – Gurdarshan Singh (since deceased). Learned counsel for the appellants submits that the complainant side has no desire to make the appellants undergo the remaining sentence. Learned counsel on the strength of compromise further submits that the parties have settled their disputes amicably; the relations of the families are cordial; they are inhabitants of same village; and the incident had occurred due to misunderstanding and on the spur of the moment. Learned counsel for the appellants has placed reliance on the judgments of Hon’ble the Supreme Court rendered in the cases of Narinder Singh and others v. State of Punjab and another, (2014) 6 SCC 466; and Ramgopal and another v.

The State of Madhya Pradesh, 2021 SCC Online SC 834 and a Full Bench judgment of this Court in the case of **Kulwinder Singh v. State of Punjab and another, 2007 (3) RCR (Criminal) 1052** and a Division Bench judgment of this Court in the case of **Sube Singh and another v. State of Haryana and another, 2013 (4) RCR (Criminal) 102**, to substantiate his argument that compounding of offences can be allowed even after conviction, during proceedings of the appeal against conviction pending in High Court/Sessions Court and even in cases involving non-compoundable offences.

15. Learned counsel for respondent Nos. 2 and 3/complainant has joined hands with the appellants and submits that he has instructions to state that in terms of compromise dated 21.12.2021, the parties have restored their cordial relations and that if the present appeal is allowed and the appellants are acquitted/discharged by this Court, respondent Nos. 2 and 3 will have no objection.

16. Learned State counsel after going through the statements and the report received from learned Court below, very fairly admits that the private parties have resolved their dispute and effected a compromise. He further submits that he has no objection if the present appeal is allowed in terms of compromise dated 21.12.2021, between the appellants and respondent Nos. 2 and 3 and the appellants are acquitted/discharged by this Court.

17. I have heard learned counsel for the parties and with their able

assistance gone through the record.

18. Hon'ble the Supreme Court in **Narinder Singh's case (supra)** has considered in detail the issue in hand as also inherent power of High Court under Section 482 Cr.P.C. to quash criminal proceedings involving non-compoundable offences in view of compromise/settlement arrived at between the parties. In the said case FIR was registered under Sections 307, 324, 323 and 34 IPC. A petition under Section 482 Cr.P.C. was filed before this Court seeking quashing of FIR on the basis of compromise entered into between the petitioners who were the accused in the FIR and the complainant. This Court refused to exercise its extraordinary discretion invoking the provisions of Section 482 Cr.P.C. on the ground that four injuries were suffered by the complainant and as per the opinion of the doctor, Injury 3 was serious in nature.

19. After detailed discussion, in paragraph No. 29 of the judgment in **Narinder Singh's case (supra)**, Hon'ble the Supreme Court laid down certain principles/guidelines for the High Court so as to give adequate treatment to the settlement between the parties while exercising power under Section 482 Cr.P.C., while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Para 29 and 29.1 of the said judgment, being relevant, are reproduced as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement

between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.”

20. In relation to cases involving the offence punishable under Section 307 IPC, in para No. 29.6 of the judgment, Hon’ble the Apex Court has held as under:-

*29.6 Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. **However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve***

their future relationship. (emphasis added)

21. In the case in hand, FIR was lodged under Section 307, 326, 324 and 34 IPC and the accused were challaned under Section 307 IPC as well. As already noticed above, after analyzing the evidence, learned trial Court came to the conclusion that ingredients constituting an offence under Section 307 IPC are completely missing in the present case, therefore, appellants - Iqbal Singh and Satinder Singh were acquitted under Section 307 IPC. Furthermore, no appeal has been filed either by the State or at the instance of the complainant party against the said finding of the trial Court.

22. In **Narinder Singh's case (supra)**, their Lordships' of Hon'ble the Supreme Court also discussed the scope of Section 320 Cr.P.C. vis-a-vis powers of High Court in exercise of Section 482 Cr.P.C. and came to the conclusion that Section 320 Cr.P.C. deals with only "compoundable offences" within the statutory frame work and the extraordinary power is enjoyed upon a High Court under Section 482 Cr.P.C. In other words, powers under Section 482 Cr.P.C. are of larger scope than Section 320 Cr.P.C.

23. In the case of **Ramgopal and another (supra)**, Hon'ble the Supreme Court has dealt with a situation where appeal under Sections 294, 323 and 326 read with 34 of IPC and Section 3 of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes Act, 1989, was pending and the concerned parties entered into compromise during pendency of such appeal. In para 13 of the judgment, Hon'ble the Supreme Court has made

the following observations:

*“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly 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 extra-ordinary power under Section 482 Cr.P.C., 1973 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., 1973 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. v. State of Punjab & Ors., (2014) 6 SCC 466** and **Laxmi Narayan (Supra)**.”*

24. From a bare perusal of the above, it is evident that broadly it was concluded by their Lordships’ that touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice and that 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.

25. Thus, it can be safely concluded that where offences are non-heinous or where the offences are pre-dominantly of a private nature, they can be annulled irrespective of the fact that trial has already been concluded

or appeal stands dismissed against conviction.

26. It has further been held in **Ramgopal's case (supra)** that the matters which can be categorized as personal in nature or in the matter in which the nature of injuries do not exhibit mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest, the Court can quash the FIR in view of the settlement arrived at amongst the parties. The observation of the Hon'ble Supreme Court is extracted as under:-

“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.”

27. The Full Bench of this Court in the matter of **Kulwinder Singh (supra)** has made the following observations:

“(28) To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice”.

(29) *In **Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others**, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:*

“The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

(30) *The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.*

(31) *No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.*

(32) *The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.*

(33) *The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of*

justice.

(34) The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.”

28. After considering the aforementioned position of law as enumerated from the interpretation made by Hon’ble the Supreme Court, Full Bench of this Court and in totality of circumstances that compromise dated 21.12.2021 between the parties has already been entered, nothing can be achieved by hearing the appeal on merits. The unignorable aspect of the matter is that both the parties, i.e. appellants and respondent Nos. 2 and 3 are residents of same village, namely, Bhattian, Police Station Kahnuwas, District Gurdaspur. Once the parties have resolved their dispute, it can be well expected that chances of rebuilding of good relations amongst them and future generations would be much more than deciding the appeal on merits. The said compromise is also required to be looked into from a different angle, i.e. for betterment of atmosphere of the village.

29. The report alongwith statements of the affected parties received from learned Court below would reveal that the complainant party has genuinely effected compromise dated 21.12.2021 with the appellants and they have no objection if the appellants are acquitted/discharged.

30. At this juncture it would be pertinent to notice that during course of arguments, learned counsel for the appellants has also pointed out that though criminal miscellaneous application No. CRM-2779-2022 in CRA-S-613-SB-2011 has been filed under Section 320 read with Section 482 Cr.P.C., seeking compounding of offences and to decide the appeal on the basis of compromise dated 21.12.2021, yet as per judgment of Hon'ble the Supreme Court rendered in the case of **Ramgopal and another (supra)**, powers of this Court under Section 482 Cr.P.C. are at a higher pedestal being extra ordinary in nature. Therefore, learned counsel for the appellants has prayed that FIR No. 93, dated 24.10.2011, under Sections 326, 324 and 34 IPC (Section 307 IPC not included because after analyzing the evidence, learned trial Court came to the conclusion that ingredients constituting an offence under Section 307 IPC are completely missing in the present case, therefore, appellants - Iqbal Singh and Satinder Singh were acquitted under Section 307 IPC), registered at Police Station Kahnuwan, District Gurdaspur, and all the consequential proceedings arising therefrom may be quashed to secure ends of justice.

31. Said contention of learned counsel for the appellants is strengthened with the observations made by their Lordships' of Hon'ble the

Supreme Court, as already noticed and reproduced in Para No. 26 of this judgment.

32. In view of above discussion, criminal miscellaneous application No. 2779-2022 is allowed. Consequently FIR No. 93, dated 24.10.2011, registered at Police Station Kahnuwan, District Gurdaspur, alongwith all consequential proceedings including impugned judgment of conviction and order of sentence, dated 05.02.2011, passed by learned Additional Sessions Judge, Gurdaspur, are set aside.

33. Criminal Appeal No. CRA-S-613-SB-2011 and pending criminal miscellaneous applications, if any, are also disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

August 22, 2022

Pk Kapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**