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

CRM-M-8000-2021
Date of decision : 05.07.2022

Karan Bali @ Ashu

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Naresh Chander, Advocate for the petitioner.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Manoj Pundir, Advocate for
Mr. Rajesh K. Dadwal, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition filed under Section 482 of the Cr.P.C. for quashing of FIR No.35 dated 28.03.2013, registered under Sections 307/34 of the Indian Penal Code, 1860 at Police Station City Hoshiarpur, District Hoshiarpur (Section 307 of IPC has been deleted later on and Section 324 of IPC has been added later on) as well as all the consequential proceedings arising therefrom including the judgment of conviction dated 09.01.2019 passed by the Court of Sh. Amit Mallan, PCS, CJM, Hoshiarpur, Punjab (Annexure P-2) on the basis of compromise dated 25.09.2019 (Annexure P-3), qua the petitioner.

On 19.02.2021, a co-ordinate Bench of this Court has passed

the following order:-

“Case heard by video conferencing.

By this petition, the petitioner seeks quashing of FIR No.35, dated 28.03.2013, registered at Police Station City, Hoshiarpur, alleging therein the commission of offences punishable under Sections 307/34 of the IPC (with Section 307 deleted and Section 324 of the Code added later), as also all other subsequent proceedings arising therefrom, on the basis of a compromise (Annexure P-3), arrived at between the petitioner and respondent no.2.

Notice of motion be issued to the respondents.

Mr. Rana Harjasdeep Singh, DAG, Punjab, accepts notice at the asking of the court on behalf of the respondent State, with Mr.Rajesh K. Dadwal, Advocate, appearing for respondent no.2 and accepting notice. He will file a power of attorney duly executed by respondent no.2 in his favour, well before the next date of hearing.

A copy of the petition be e-mailed to them today itself by learned counsel for the petitioner.

Learned counsel for the complainant/respondent no.2 also submits that though in the FIR an offence punishable under Section 307 of the IPC was alleged to have been committed, however, subsequently the said offence was deleted on account of the injuries received not found to be dangerous to life.

In such circumstances, the petitioner, as also respondent no.2 would appear before the learned appellate court up to 01.03.2021 to record their statements. That Court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this Court, before the next date of hearing.

That Court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be required, if this Court comes to the conclusion that the FIR sought to be quashed can be so quashed.

The learned State counsel would also verify whether there are any other criminal cases, of like nature or otherwise, pending against the petitioner.

Adjourned to 19.03.2021.

Naturally, learned counsel for the parties would be required to address arguments by citing whatever judgments they wish to rely upon, that the FIR can be quashed even after the petitioner, i.e. the accused, has been convicted by the trial court.

A gazetted officer is also directed to file a reply to the petition.

February 19, 2021

*Sd/-(AMOL RATTAN SINGH)
JUDGE”*

In pursuance of the said order, a report has been submitted by the District and Sessions Judge, Hoshiarpur. The relevant part of the report is reproduced hereinbelow:-

“With reference to the subject cited above, it is submitted that above referred Criminal Appeal is pending in FIR No.35 dated 28.3.2013, under Sections 324/34 IPC, Police Station City, Hoshiarpur, against Karan Bali @ Ashu, and it is fixed for 26.4.2021 for arguments. In this case, accused Harwinder Singh, Arshdeep Singh @ Manny, Karan Bali @ Ashu and Varun Rana were challaned out of which, Arshdeep Singh @ Manny was declared proclaimed person and the trial was faced by Harwinder Singh, Karan Bali @ Ashu and Varun Rana. As per the record of trial court,

accused Karan Bali @Ashu was convicted and sentenced under Section 324 IPC read with section 34 IPC and Varun Rana, the other accused, was also convicted and sentenced under Section 324 IPC read with section 34 IPC to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two months each whereas one of the accused, Harwinder Singh was acquitted by the trial court by giving him benefit of doubt.

It is submitted that the other accused Varun Rana has also filed Criminal Appeal bearing RBT No.28 of 5.2.2019/4.1.2020, titled Varun Rana Vs.State of Punjab in the aforesaid judgment of conviction and order of sentence dated 9.1.2019, passed by Chief Judicial Magistrate, Hoshiarpur, which is also pending for 26.4.2021 in this court.

2. As per the direction of the Hon'ble High Court, statement of complainant Raj Kumar @ Mappa has been recorded in the presence of his counsel where he confirmed that he has effected compromise with Karan Bali @Ashu with the intervention of respectables. He confirmed that no other dispute is left between them and this compromise has been effected with his free consent. Karan Bali @ Ashu, one of the appellant/convict has also confirmed the compromise, which was effected with the intervention of the respectables. From the statements of aforesaid complainant and one of the appellant/convict, it is clear that this compromise has been effected between them with their free consent and without any pressure. Attested copy of statement of complainant Raj Kumar @ Mappa is "Annexure-A" and attested copy of statement appellant/convict Karan Bali @Ashu is "Annexure-B".

The report of Police Station City, Hoshiarpur has

been received according to which no other case is registered against Karan Bali @ Ashu. The attested copy of the report of Police Station City, Hoshiarpur, is “Annexure “C”.

Report is submitted.

*Yours faithfully
Sd/- (Amarjot Bhatti),
District & Sessions Judge,
Hoshiarpur”*

A perusal of said report would show that in the present case, four persons were challaned including the present petitioner and since, Arshdeep Singh @ Manny was declared proclaimed person, thus, the trial was faced by three persons including the present petitioner. The petitioner alongwith Varun Rana, was convicted under Section 324 IPC read with section 34 IPC and sentenced to undergo rigorous imprisonment for a period of one year and to pay fine of Rs.5000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two months each. Accused-Harwinder Singh was acquitted by the trial court by being afforded the benefit of doubt. The petitioner as well as the said Varun Rana had filed separate appeals challenging their conviction and the appeal filed by the present petitioner, bearing No.CRA-42-2019, is now pending before the Sessions Judge, Hoshiarpur for 11.07.2022. During the pendency of the said appeal, compromise dated 25.09.2019 has been effected between the petitioner and the complainant and as per the report of District and Sessions Judge, Hoshiarpur, the said compromise is genuine and bona fide and has been entered into without any pressure and undue influence.

Learned counsel for the petitioner has further submitted that the present case is a case of partial compromise and has relied upon the

judgment passed by the Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as **2012(12) SCC 401**, to contend that even in case of a partial compromise, FIR can be quashed qua the accused with whom the compromise has been effected.

Learned counsel for the petitioner 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 petitioner 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 has opposed the present petition for quashing and submitted that in the present case, the petitioner has already been convicted.

Learned counsel for respondent no.2 has admitted the fact that the matter has been compromised and stated that same is in the best interest of all the concerned persons and would help in bringing about peace and amity between the petitioner and respondent no.2. He has thus, prayed that the present petition 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.

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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 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 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 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 postconviction, 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 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 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.*

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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.”

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 petition can be categorized as a purely personal / criminal act of private nature. Secondly, in the present case, Section 307 of IPC has been subsequently deleted and the injuries which were caused were simple in nature 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 become immaterial that the petitioners have been convicted by the Chief Judicial Magistrate, Hoshiarpur. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of the District & Sessions Judge, Hoshiarpur. Fifthly, the occurrence took place in the year 2013 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the petitioner is a permanent resident of Hoshiarpur and his house is situated in Bahadarpur Chowk, Hoshiarpur and respondent No.2 is also a resident of the same locality and thus, quashing of present proceedings would help in bringing about 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 petitioner.

Thus, keeping in view the abovesaid facts and circumstances, this petition is allowed and FIR No.35 dated 28.03.2013, registered under Sections 307/34 of the Indian Penal Code, 1860 at Police Station City Hoshiarpur, District Hoshiarpur (Section 307 of IPC has been deleted later on and Section 324 of IPC has been added later on) as well as all the consequential proceedings arising therefrom are quashed, qua the petitioner on the basis of the compromise and the judgment of conviction and sentence dated 09.01.2019 passed by the Court of Sh. Amit Mallan, PCS, CJM, Hoshiarpur, Punjab (Annexure P-2) is set aside qua the petitioner.

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

05.07.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:- Yes/No****Whether reportable:- Yes/No**