

(104) IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-3528-SB-2015 (O&M)
Date of Decision: 17.10.2022

GURNAM SINGH & OTHERS

...Appellants

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. K.S. Bal, Advocate
for the appellants.

Mr. Kanwar Sanjiv Kumar, Asstt. A.G., Haryana.

Mr. Sukhbir Maandi, Advocate for the complainant.

JASJIT SINGH BEDI, J.

The present appeal has been preferred against the impugned judgment and orders dated 28.07.2015 and 29.07.2015 passed by the learned Additional Sessions Judge, Karnal whereby the appellants have been convicted and sentenced as under:-

Sections	Sentence RI	Fine	In Default
Section 148 IPC	01 year	Rs.2000/-	RI 01 month
Section 323/149 IPC	01 year	Rs.2000/-	RI 01 month
Section 324/149 IPC	01 year	Rs.2000/-	RI 01 month
Section 325/149 IPC	01 year	Rs.4000/-	RI 02 months
Section 326/149 IPC	02 years	Rs.5000/-	RI 06 months
Section 341/149 IPC	01 month	Rs.500/-	RI 07 days
Section 506 IPC	01 year	Rs.1000/-	RI 02 months

2. The brief facts of the case are that one Iqbal Singh son of Sahib Singh got registered FIR No.346 dated 16.09.2012 under Sections 148/149/323/324/307/506/120B/325/326 IPC at Police Station Nissing

against Gurnam Singh, Jagwinder Singh, Gurwinder Singh, Dilbag Singh, Bhagwant Singh.

3. The Trial Court vide its judgment in the aforementioned FIR in Case No.28 of 2013 of 2014 dated 28.07.2015 convicted the appellants namely, Gurnam Singh, Gurvinder Singh, Bhagwant Singh and Dilbag Singh (Jagwinder Singh was declared a proclaimed offender) under Sections 148/325/326/324/323/341 read with Sections 149/506 IPC and sentenced them as aforesaid. While convicting the appellants, they were acquitted for having committed the offence under Section 307 IPC.

4. Thereafter, the present appeal bearing No.CRA-S-3528-SB-2015 came to be filed before this Court which was admitted on 14.08.2015.

5. During the pendency of the present appeal, a compromise was effected between the parties and a compromise deed dated 14.09.2022 has been placed on record as Annexure A-1.

6. The learned counsel for the appellants contends that as a compromise has been effected between the neighbours, the appellants may be acquitted of the charges framed against them in view of the judgments of the Hon'ble Supreme Court in the case of *Ramgopal & Anr. Versus State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 32* and *Ramawatar Versus State of Madhya Pradesh, Criminal Appeal No.1393 of 2011, decided on 25.10.2021* and.

7. On the other hand, the learned State counsel does not dispute the fact of a compromise having been effected as also the legal position emanating out of the judgments (supra).

8. The learned counsel for the complainant also does not dispute the fact that a compromise has been effected between the parties and states that he has no objection if the present appeal is allowed and the appellants are acquitted of the charges framed against them.

9. I have heard the learned counsel for the parties.

10. The Hon'ble Supreme Court in the case of **Ramgopal & Anr. Versus State of Madhya Pradesh, 2021(4) R.C.R. (Criminal) 322**, held as under:-

“19. We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extra-ordinary power enjoined upon a High Court under Section 482 Cr.P.C., 1973 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., 1973 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.

20. Having appraised the afore-stated para-meters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

***Firstly**, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;*

***Secondly**, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;*

***Thirdly**, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;*

***Fourthly**, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);*

***Fifthly**, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;*

***Sixthly**, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill-will and have no vengeance against each other; and*

***Seventhly**, the cause of administration of criminal justice system would remain un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.*

conclusion:

Criminal Appeal No.1489 of 2012

21. Consequently, and for the reasons stated above, read with the settlement dated 13th September 2006, we find it appropriate to invoke our powers under Article 142 of the Constitution and quash the criminal proceedings in the aforesaid case. As a sequel thereto, all offences emanating out of the FIR leading to Criminal Appeal No. 1489 of 2012 stand annulled, and the judgment and orders passed by the trial court, appellate court and the High Court are set aside. Resultantly, the Appellants shall be deemed to have been acquitted of the charged offences for all intents and purposes.

[emphasis supplied]

The Hon'ble Supreme Court in the case of **Ramawatar Versus State of Madhya Pradesh, Criminal Appeal No.1393 of 2011, decided on 25.10.2021**, held as under:-

“19. Having considered the peculiar facts and circumstances of the present case in light of the afore-stated principles, as well as having meditated on the application for compromise, we are inclined to invoke the powers under Article 142 and quash the instant Criminal proceedings with the sole objective of doing complete justice between the parties before us. We say so for the reasons that:

***Firstly**, the very purpose behind Section 3(1)(x) of the SC/ST is to deter caste-based insults and intimidations when they are used with the intention of demeaning a victim on account of he/she belonging to the Scheduled Caste/ Scheduled Tribe community. In the present case, the record manifests that there was an undeniable pre-existing civil dispute between the parties. The case of the Appellant, from the very beginning, has been that the alleged abuses were uttered solely on account of frustration and anger over the pending dispute. Thus, the genesis of the deprecated incident was the afore-stated civil/property dispute. Considering this aspect, we are of*

the opinion that it would not be incorrect to categorise the occurrence as one being overarchingly private in nature, having only subtle undertones of criminality, even though the provisions of a special statute have been attracted in the present case.

Secondly, *the offence in question, for which the Appellant has been convicted, does not appear to exhibit his mental depravity. The aim of the SC/ST Act is to protect members of the downtrodden classes from atrocious acts of the upper strata of the society. It appears to us that although the Appellant may not belong to the same caste as the Complainant, he too belongs to the relatively weaker/backward section of the society and is certainly not in any better economic or social position when compared to the victim. Despite the rampant prevalence of segregation in Indian villages whereby members of the Scheduled Caste and Scheduled Tribe community are forced to restrict their quarters only to certain areas, it is seen that in the present case, the Appellant and the Complainant lived in adjoining houses. Therefore, keeping in mind the socio-economic status of the Appellant, we are of the opinion that the overriding objective of the SC/ST Act would not be overwhelmed if the present proceedings are quashed.*

Thirdly, *the incident occurred way back in the year 1994. Nothing on record indicates that either before or after the purported compromise, any untoward incident had transpired between the parties. The State Counsel has also not brought to our attention any other occurrence that would lead us to believe that the Appellant is either a repeat offender or is unremorseful about what transpired.*

Fourthly, *the Complainant has, on her own free will, without any compulsion, entered into a compromise and*

wishes to drop the present criminal proceedings against the accused.

***Fifthly**, given the nature of the offence, it is immaterial that the trial against the Appellant had been concluded.*

***Sixthly**, the Appellant and the Complainant parties are residents of the same village and live in very close proximity to each other. We have no reason to doubt that the parties themselves have voluntarily settled their differences. Therefore, in order to avoid the revival of healed wounds, and to advance peace and harmony, it will be prudent to effectuate the present settlement.*

Conclusion:

20. Consequently, and for the aforementioned reasons, we find it appropriate to invoke our powers under Article 142 of the Constitution and quash the criminal proceedings to do complete justice between the parties. As a sequel thereto, judgment and orders passed by the Trial Court and the High Court are set aside. Bail bonds, if any, are discharged. The appeal is allowed in above terms.”

[emphasis supplied]

11. Coming back to the facts of the present case, it may be pointed out that in the present case certain factors would establish that the compromise effected between the parties is genuine and even otherwise, none of the parties acted in a particularly depraved manner during the course of the occurrence or thereafter:-

(i) Firstly, the occurrence involved in the present case would be said to be purely personal in nature.

(ii) Secondly, the nature of injuries for which the appellants have been convicted do not appear to exhibit cruelty or the

commission of an offence of such serious nature that the quashing would over-ride public interest.

(iii) Thirdly, apparently, the parties on their own volition without any coercion or compulsion have buried their differences and wish to accord quietus to their disputes.

(iv) Fourthly, the parties are relatives and owned land adjacent to each other.

(v) Fifthly, a number of other civil/criminal disputes pending between the parties shall stand compromised in case the appellants are acquitted of the charges framed against them.

12. In view of the aforementioned discussion, I deem it appropriate to invoke the powers of this Court under Section 482 Cr.P.C. and quash the criminal proceedings in this case. As a sequel thereto, all offences emanating out of the FIR No.346 dated 16.09.2012 leading to the filing of the present CRA-S-3528-SB-2015 stand quashed and the judgment and orders dated 28.07.2015 and 29.07.2015 passed by the Trial Court are set aside. Resultantly, the appellants shall be deemed to have been acquitted of the charges framed against them.

(JASJIT SINGH BEDI)
JUDGE

17.10.2022

JITESH

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