

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRA-S-4349-SB-2014(O&M)
Date of decision : 18.07.2022

Ravinder Singh alias Tenu

... Appellant

Versus

State of Haryana and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Navpriet Kohli, Advocate
for the appellant.

Mr.Munish Sharma, AAG, Haryana.

Mr.Narinder Singh Sindher, Advocate
for the complainant-respondent no.2.

VIKAS BAHL, J.(ORAL)

CRM-8968-2022

This is an application under Section 482 Cr.P.C. for fixing the actual date of hearing in the criminal appeal on the ground that the matter has been compromised, during the pendency of the present appeal.

Learned counsel for the complainant-respondent no.2 has also prayed that the main appeal be allowed as the matter has been compromised.

Learned State counsel has stated that he has no objection if the application is allowed.

Keeping in view the above said facts and circumstances, the application is allowed and the main appeal is preponed for today and is taken on Board for hearing today itself.

CRA-S-4349-SB-2014

Challenge in the present appeal is to the judgment dated 29.09.2014 and order of sentence dated 30.09.2014 vide which the appellant has been convicted and sentenced as under:-

*“1. Section 326 IPC Rigorous imprisonment for three years
and to pay a fine of Rs.10000/-. In
default of payment of fine, he shall
also undergo S.I., for three months.*

*2. Section 27 of Arms Act Rigorous imprisonment for three years
and to pay a fine of Rs.5000/-. In
default of payment of fine, he shall
also undergo S.I., for one month.”*

The appellant has been convicted under Section 326 IPC and Section 27 of the Arms Act and has been acquitted under Section 307 IPC.

During the pendency of the present appeal, learned counsel for the appellant has filed an application, i.e. CRM-8969-2022 for placing on record the compromise deed dated 23.11.2021 as Annexure A-1 and application, i.e. CRM-8968-2022 for fixing the actual date of hearing in the appeal. The order dated 15.03.2022 passed by this Court is reproduced hereinbelow:-

“CRM-8969-2022

This is an application under Section 482 Cr.P.C. for placing on record the compromise deed dated 23.11.2021 as Annexure A-1.

Allowed as prayed for. Annexure A-1 is taken on record subject to all just exceptions.

CRM-8968-2022

Learned counsel for the applicant-appellant has submitted that the matter has been compromised and has made oral request that Yashwinder Singh son of Rajender Singh, resident of village Sullar, Tehsil and District Ambala be impleaded as respondent no.2.

On oral request of learned counsel for the applicant-appellant, the said Yashwinder Singh son of Rajender Singh, resident of village Sullar, Tehsil and District Ambala is ordered to be impleaded as respondent no.2. Registry is directed to carry out the necessary correction in the memo of parties.

Notice in the application be issued to respondent no.2 for 30.03.2022.

March 15, 2022.”

Thereafter on 30.03.2022, this Court was pleased to pass the following order:-

“Learned counsel for applicant-appellant as well as learned counsel appearing for complainant/respondent No.2 have jointly submitted that the matter has been compromised between the parties and they would get their statements recorded with regard to the said compromised.

Adjourned to 02.05.2022.

The parties are directed to appear before the Illaqa Magistrate/trial Court for recording their statements qua compromise within a period of 15 days.

The Illaqa Magistrate/trial Court is directed to submit a report on or before the next date of hearing containing the following information:-

- 1. Number of persons arrayed as accused.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other FIR or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

March 30, 2022”

In pursuance of the said order, the statements of the parties have been recorded and the relevant portion of the report of the Judicial Magistrate Ist Class, Ambala, dated 11.04.2022 is reproduced hereinbelow:-

“Point wise information as sought by the Hon'ble High Court is submitted as under:-

(i)	<i>Number of persons arrayed as accused in FIR?</i>	<i>In the present case, there was only one accused namely Sh. Ravinder Singh @ Tenu</i>
(ii)	<i>Whether any accused is proclaimed offender?</i>	<i>As per IO of the case, none of the accused has been declared as proclaimed offender and there is only one accused.</i>
(iii)	<i>Whether the compromise is genuine, voluntary and without any coercion or undue influence</i>	<i>Both the parties have admitted that a compromises have been effected by them (Annexure -A11) and it appears to be genuine and valid. I am satisfied that the said compromise has been arrived at with the free consent of the parties and without any undue influence or coercion from any side.</i>
(iv)	<i>Whether the accused persons are involved in any other FIR or not?</i>	<i>As per IO of the case, no other FIR was registered against accused at the relevant time.</i>
(v)	<i>How many victims/complainants are there in the FIR?</i>	<i>As per IO of the case, there was only one victim/complainant namely Sh. Yashwinder Singh in this case.</i>

The statements of the applicant/convict, injured/complainant dated 08.04.2022 and 11.04.2022 and Investigating Officer dated 11.04.2022 have been recorded. The statements of the parties and Investigating Officer and photocopy of compromise Annexure A11 are enclosed herewith for kind consideration, please.

*Yours faithfully,
(Neelam Kumari)
Judicial Magistrate Ist Class,
Ambala*

Dated: 11.04.2022”

A perusal of the same would show that the compromise effected between the parties is genuine and bonafide.

Brief facts of the present case are that on 19.04.2013, the complainant namely Yashvinder Singh, along with his maternal uncle Jasbir Singh, had gone to village Mohra to meet their relative namely Dharambir Singh and the said Jasbir Singh had strained relations with the appellant due to some civil dispute and at about 11:00 PM, after taking dinner, when they came out of the house of Dharambir Singh, the appellant and one Vishavjeet who were neighbours were standing on their terrace and thereafter, there were heated arguments and the appellant fired a gun shot which hit on the left foot of the complainant and on account of the same, the present FIR had been registered.

The trial Court after considering the entire evidence and documents on record, convicted the present appellant with respect to the offences as has been stated above, but acquitted the appellant under Section 307 IPC and as has been stated hereinabove, during the pendency of the present appeal, a compromise has been effected between the parties which fact has been found to be correct and genuine as per the report of the Judicial Magistrate Ist Class and which fact has been reiterated by learned counsel for complainant-respondent no.2.

Learned counsel for the appellant 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 appellant 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 State counsel has opposed the present appeal for quashing and submitted that in the present case, the appellant has already been convicted.

This Court has heard learned counsel for the parties.

The Hon'ble Supreme Court of India in ***Ramgopal and Anr.'s*** case (supra) has discussed in detail the power of the High Court under 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 above said judgment would show that it has been held that the extra ordinary power 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 post-conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident.

The Coordinate Bench of this Court in ***Ram Parkash's*** case (*supra*), has allowed the petition under Section 482 Cr.P.C. under similar circumstances. The relevant portion of the said judgment is reproduced hereinbelow:

“Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No.225, dated 24.08.2005 (Annexure P-1) under Sections 323, 324, 452, 506, 148 and 149 IPC(subsequently added Section 308 and 336 IPC), registered at Police Station Sadar Nawanshahar, District-Nawanshahar, on the basis of compromise dated 06.02.2015(Annexure P-4) and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence, both dated 25.09.2013 passed by the learned Addl. Sessions Judge, Shaheed Bhagat Singh Nagar, whereby the accused-petitioners, were convicted and sentenced...”

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. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.

22. Consequently and for the reasons afore-stated, we allow this petition and set aside the judgement and order dated 16.03.2009 passed in Criminal Case No. 425-1 of 2000 of Additional Chief Judicial Magistrate, Hisar, on the basis of compromise dated 08.08.2011 arrived at between them and their step-mother respondent No.2 (Smt. Reshma Devi) w/o late Rajmal qua the petitioners only. As a necessary corollary, the criminal complaint filed by respondent No.2 is dismissed qua the petitioners on the

basis of above-stated compromise. 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 above said 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 above said 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, Ambala. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Judicial Magistrate Ist Class, Ambala. Fifthly, the occurrence in question took place in the year 2013 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the present appellant as well as respondent no.2 are both residents of Ambala and are related to each other and thus, quashing of 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

Thus keeping in view the above said facts and circumstances, the present appeal is allowed and FIR no.112 dated 20.04.2013 registered under Sections 326, 307 IPC and Section 27 of the Arms Act at Police Station Parao, as well as all the consequential proceedings arising therefrom are quashed, qua the appellant. The judgment dated 29.09.2014 and order of sentence dated 30.09.2014 passed by the Additional Sessions Judge, Ambala are set aside.

Learned counsel for the appellant and the complainant-respondent no.2 have pointed out that in the present case, compensation of Rs.50,000/- was ordered to be deposited and same has been deposited by the appellant before the trial Court and have submitted that the said amount of Rs.50,000/- be released to the complainant in the present case. In case the said amount of Rs.50,000/- has been deposited and has not been released till

date, it will be open to the complainant to move an application for withdrawal of said amount of Rs.50,000/- and the same would then be released to the complainant.

(VIKAS BAHL)
JUDGE

July 18, 2022
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No