

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

1. CRM-M-26968-2017(O&M)

Jaskaran Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

2. CRA-S-3979-SB-2014(O&M)

Jaskaran Singh and others

... Appellants

Versus

State of Punjab

... Respondent

Date of decision : 19.12.2022

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.Amit Arora, Advocate
for the petitioners and appellants in both cases.

Mr.Tarun Aggarwal, Sr.DAG, Punjab.

Mr.P.S.Kanwar, Advocate
for respondents no.2 to 4 in CRM-M-26968-2017.

VIKAS BAHL, J.(ORAL)

CRM-47000-2022 IN CRM-M-26968-2017

This is an application under Section 482 Cr.P.C. filed by the
applicant-petitioner for preponing the date of hearing in the main case from
29.03.2023 on the ground that the matter has been compromised.

Learned State counsel as well as learned counsel for respondents no.2 to 4 have stated that they have no objection in case the application is allowed and the main case is preponed.

In view of the above and no objection from the opposing side, the present application is allowed and the main case is preponed from 29.03.2023 to today itself for hearing.

CRM-48644-2022 IN CRA-S-3979-SB-2014

This is an application under Section 482 Cr.P.C. filed by the applicant-petitioner for preponing the date of hearing in the main case from 29.03.2023 on the ground that the matter has been compromised.

Learned State counsel has stated that he has no objection in case the application is allowed and the main case is preponed.

In view of the above and no objection from the opposing side, the present application is allowed and the main case is preponed from 29.03.2023 to today itself for hearing.

CRM-M-26968-2017 & CRA-S-3979-SB-2014

This order will dispose of two cases i.e., the first bearing CRM-M-26968-2017 filed by the petitioners Jaskaran Singh, Sukhwinder Singh, Jaswinder Singh and Gurdev Singh under Section 482 Cr.P.C. for quashing of FIR no.122 dated 23.12.2010 registered under Sections 326, 324, 323, 341, 336, 148, 149 IPC (Section 307 IPC added later on) and Sections 25, 27/54/59 of the Arms Act at Police Station Valtoha, District Tarn Taran and all the subsequent proceedings arising therefrom including the judgment of conviction and order of sentence dated 17.09.2014 vide which the petitioners have been convicted under Sections 326, 324, 323 read with 149 and Section 341 IPC and acquitted under Section 307 IPC. The second case

is CRA-S-3979-SB-2014 filed by the appellants Jaskaran Singh, Sukhwinder Singh, Jaswinder Singh and Gurdev Singh against the judgment and order dated 17.09.2014 vide which the appellants have been convicted and sentenced as under:-

<i>Name of convicts</i>	<i>Offences</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of payment of fine, further R.I. for</i>
<i>Jaskaran Singh</i>	<i>326 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>324/149 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>323 IPC</i>	<i>6 months</i>	<i>nil</i>	<i>Nil</i>
	<i>324/149 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>341 IPC</i>	<i>1 month</i>	<i>nil</i>	<i>Nil</i>
<i>Sukhwinder Singh</i>	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>324 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>323/149 IPC</i>	<i>6 months</i>	<i>nil</i>	<i>Nil</i>
	<i>324/149 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>341 IPC</i>	<i>1 month</i>	<i>nil</i>	<i>Nil</i>
<i>Jaswinder Singh</i>	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>324/149 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>323/149 IPC</i>	<i>6 months</i>	<i>nil</i>	<i>Nil</i>
	<i>324 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>341 IPC</i>	<i>1 month</i>	<i>nil</i>	<i>Nil</i>
<i>Gurdev Singh</i>	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>326/149 IPC</i>	<i>3 years</i>	<i>Rs.5000/-</i>	<i>6 months</i>
	<i>324/149 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>323/149 IPC</i>	<i>6 months</i>	<i>nil</i>	<i>Nil</i>
	<i>324/149 IPC</i>	<i>1 years</i>	<i>nil</i>	<i>Nil</i>
	<i>341 IPC</i>	<i>1 month</i>	<i>nil</i>	<i>Nil</i>

All the sentences shall run concurrently.”

registered under Sections 326, 324, 323, 341, 336, 148, 149 IPC (Section 307 IPC added later on) and Sections 25, 27/54/59 of the Arms Act at Police Station Valtoha, District Tarn Taran and out of said six accused persons, two persons Partap Singh and Baljit Singh were acquitted whereas the four present petitioners were convicted, as has been detailed hereinabove. The four petitioners were, however, acquitted of offence under Section 307 IPC. The said appeal bearing CRA-S-3979-SB-2014 was filed by the said four accused persons challenging the judgment and order of sentence dated 17.09.2014 and had been admitted and recovery of fine was stayed.

During the pendency of the said appeal, the matter was compromised and the said four petitioners / accused filed the petition under Section 482 Cr.P.C. for quashing of the above said FIR and all the subsequent proceedings arising therefrom including the judgment and order of sentence dated 17.09.2014. In the said case, the coordinate Bench of this Court on 28.07.2017 passed an order that the file of CRA-S-3979-SB-2014 be listed along with the present petition. Thereafter, vide order dated 15.01.2018 passed by the coordinate Bench of this Court, the parties were directed to get their statements recorded in terms of the compromise arrived at between them. In pursuance of the said order, the statements of the parties were recorded and the report has been submitted. The relevant portion of the said report is reproduced hereinbelow:-

“From the statement of both the parties which comes to my knowledge that parties has compromised their matter without any pressure or coercion in any manner because they want to live peacefully. Moreover, the complainant stated that she knows her good/bad and have titled to compromised the matter to bring home, peace and harmony being relatives. Therefore, the compromise made for the parties seems to be genuine and without any influence. The identity of the party were checked and returned and

photo copies of same are taken on record for perusal of Hon'ble High Court Chandigarh.”

Vide order dated 04.03.2020, coordinate Bench of this Court was pleased to direct the petitioners to deposit Rs.40,000/- each totalling Rs.1,60,000/- as costs, out of which, Rs.80,000/- was to be deposited in the Poor Patients' Welfare Fund of the PGI, Chandigarh and the remaining amount of Rs.80,000/- was to be deposited with the Institute for the Blind, Sector 26, Chandigarh.

Learned counsel for the petitioners as well as the private respondents have jointly submitted that the said amount has been deposited and they have produced receipts regarding the same, which have been marked as 'Mark A' and 'Mark B'.

A perusal of the above said facts moreso, the report which has been submitted by the trial Court would show that the compromise has been effected voluntarily, without any pressure or coercion or any undue influence. The said fact has also been reiterated by learned counsel for the petitioners as well as learned counsel for the private respondents. Both the counsel have further placed reliance upon the judgment 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 dated 29.09.2021 and have prayed that the present petition be allowed.

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

This Court has heard learned counsel for the parties and has

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 ancillary 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 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 had further been observed that criminal proceedings involving non heinous offences can be annulled irrespective of the fact that

conviction and that handing out punishment is not the sole form of delivering justice. Thus, it goes without saying, that in 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.

Coordinate 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***”, allowed a petition filed 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. 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.”

Another 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 above said judgment was also placed upon the judgment of the Hon'ble Supreme Court in **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097** 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, in the present case, it is the admitted case of the parties that the petitioners have been acquitted of the offence under Section 307 IPC, Secondly, compromise has been entered into without any coercion, or compulsion and it has been entered into willingly, and the said fact has been endorsed by virtue of the report submitted by the Judicial Magistrate Ist Class, Patti. Thirdly, the incident is of the year 2010 and there is nothing to show that any untoward incident has taken place after the same, between the parties. The appellants/petitioners as well as the complainant belong to the same village and thus, the compromise will help in bringing peace and harmony between the parties. Fourthly, the offence, in the present case, cannot be stated to be a heinous offence or offence of a serious nature and fifthly, the object of administration of the criminal justice system would remain unaffected on

resultant acquittal of the petitioners-appellants.

Thus, keeping in view the above said facts and circumstances, the present petition as well as the criminal appeal are allowed and FIR no.122 dated 23.12.2010 registered under Sections 326, 324, 323, 341, 336, 148, 149 IPC (Section 307 IPC added later on) and Sections 25, 27/54/59 of the Arms Act at Police Station Valtoha, District Tarn Taran and all the subsequent proceedings arising therefrom are quashed and the judgment of conviction and order of sentence dated 17.09.2014 passed by the Additional Sessions Judge, Tarn Taran are set aside.

Pending miscellaneous application, if any, stands disposed of in view of the abovesaid order.

(VIKAS BAHL)
JUDGE

December 19, 2022
Davinder Kumar

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