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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-808-2022 (O&M)
Date of decision : 02.05.2022

Bhupinder Kaur @ Rani

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. Rajesh Bhatheja, Advocate for the petitioner.
Mr. Sarabjit S. Cheema, AAG, Punjab.
Mr. Sandeep Sharma, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

Challenge in the present Criminal Revision is to the judgment dated 05.09.2019 passed by the Additional Chief Judicial Magistrate, Amritsar, vide which, the petitioner has been convicted in FIR No.58 dated 25.02.2017 registered under Sections 379 and 411 of the Indian Penal Code, 1860 and has been sentenced as under:-

<i>Name of the convict</i>	<i>Under Section</i>	<i>Rigorous imprisonment for a period of</i>	<i>Fine</i>	<i>In default of making fine, the rigorous imprisonment for the period of</i>
Bhupinder Kaur @ Rani	379 IPC	Three years	Rs.5000/-	One Month
	411 IPC	Three years	Rs.5000/-	One Month

15. Both the sentences shall run concurrently.”

Challenge has also been made to the judgment dated 18.04.2022 passed by the Additional Sessions Judge, Amritsar, vide which, an appeal filed by the present petitioner has been dismissed.

Learned counsel for the petitioner has submitted that the petitioner, who is a 51 year old widow lady, has been alleged to have made an attempt to commit theft in a crowded place and even as per the prosecution case, she was not successful in the said attempt and thus, the purse which she had allegedly tried to steal was recovered at the spot. It is further submitted that in the present case, compromise dated 26.04.2022 (Annexure P-1) has been effected between the parties i.e. the petitioner and the complainant-Amandeep Singh and as per the said compromise, it has specifically been stated therein that the complainant would have no objection in case, the judgments passed by both the Courts below, convicting the petitioner, are set aside and the petitioner is acquitted/discharged. It is further contended that the accompanying affidavit (Annexure P-2) of the complainant-Amandeep Singh has also been annexed alongwith the present Criminal Revision reiterating the factum of compromise dated 26.04.2022 (Annexure P-1). It is further argued that the petitioner is not involved in any other case.

Learned counsel for the petitioner has 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.

Notice of motion.

On advance notice, Mr. Sarabjit S. Cheema, AAG, Punjab, appears and accepts notice on behalf of the State and has submitted that the judgments passed by both the Courts below are legal and valid.

Mr. Sandeep Sharma, Advocate appears on behalf of respondent No.2-Amandeep Singh and has reiterated the fact that in the present case, compromise dated 26.04.2022 (Annexure P-1) has been effected without coercion and undue influence and out of free will of the complainant and that the complainant has no objection in case, the judgments passed by both the Courts below are set aside and petitioner is acquitted/discharged. He has also affirmed the fact that the affidavit (Annexure P-2) is of the said complainant and has submitted that the complainant has entered into the compromise keeping in view the old age of the petitioner and also the fact that no loss has been caused to the complainant.

This Court has heard the learned counsel for the parties and has perused the paper book.

The Hon'ble Supreme Court of India in ***Ramgopal and Anr.'s*** case (supra) has held as under:-

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 High Court has vast power beyond the metes and bounds of Section 320 of 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...

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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.”

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.

In the present case, it is not in dispute that the petitioner is widow of 51 years of age and is not involved in any other case. Even as per the allegations levelled by the prosecution, the petitioner had made an attempt to take out the said purse from the back pocket of the pants of the complainant and she was caught on the spot and the purse was also recovered. It is not in dispute that there is only one victim in the present case i.e. Amandeep Singh-respondent No.2. The said Amandeep Singh has compromised the matter and the relevant portion of the said compromise dated 26.04.2022 (Annexure P-1) is reproduced hereinbelow:-

“This instrument of Compromise is being executed at Amritsar on this 26th day of April, 2022, between:

Amandeep Singh, son of Gian Singh, Resident of Village Wadala Kalan, Tehsil Baba Bakala Sahib, District Amritsar (hereinafter called party of the first part).

AND

Bhupinder Kaur alias Rani aged about 54 years W/o late Charanjit Singh, caste Jatt Sikh, resident of Village Chuhar Chak, P.S. Ajitwal, District Moga, now confined in Central Jail, Amritsar (hereinafter called party of the second part) on the following terms and conditions:

1. That on the statement of party of 1st part, FIR No.58 dated 25.02.2017, Under Sections 379/411 IPC was registered at Police Station 'E-Division', Amritsar against the party of the 2nd part Bhupinder Kaur alias Rani aged about 54 years

W/o late Charanjit Singh, caste Jatt Sikh, resident of Village Chuhar Chak, P.S. Ajitwal, District Moga.

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5. That now with the intervention of the respectables and friends, the parties hereof have amicably arrived at compromise as the party of the 2nd part has realized her wrong and undertakes not to repeat it in future or indulge in such activities in any manner whatsoever and therefore, the party of the 1st part having considered the old age of the party of the 2nd part and her realizations, has agreed to condone her act. Accordingly, the party of the 1st part has got no objection if the present FIR is quashed and/or the aforesaid judgments are set aside thereby acquitting or discharging or releasing the party of the 2nd part on probation.

6. That the party of the 1st part is ready to get recorded his statement before the Hon'ble Punjab & Haryana High Court or before the Learned Trial Court or as directed by the Hon'ble Court with regard to the present compromise.

7. That the party of the first part has effected this compromise with the party of the 2nd part through her Ranjit Singh S/o Santokh Singh, out of his own volition and Will without the exercise of any force, coercion or threat and the parties hereof shall be bound by the same and either of the party shall not sue each other on account of the aforesaid cause or proceedings arising out of the same. Hence this compromise has been executed, so that the same be used as and when required.

Party of the 1st Part

Sd/- Amandeep Singh S/o Gian Singh,

R/o Village Wadala Kalan, Tehsil Baba Bakala Sahib,

District Amritsar

Party of the 2nd Part

Bhupinder Kaur alias Rani

W/o late Charanjit Singh, R/o Village Chuhar Chak, P.S.

Ajitwal, Distt. Moga..

Now confined in Central Jail, Amritsar.”

In support of the abovesaid compromise, complainant has also submitted his affidavit which has been annexed as Annexure P-2 with the present Criminal Revision.

Learned counsel for the complainant-respondent No.2- Amandeep Singh has stated that the said compromise (Annexure P-1) and affidavit (Annexure P-2) are genuine, bona fide and have been entered into without any coercion, or undue influence.

This Court is of the conclusion that the said compromise is genuine and bona fide and thus, law laid down in the abovesaid judgments would apply in the present case. Further relevant parameters for consideration as laid by the judgment of the Hon'ble Supreme Court in down in ***Ramgopal and Anr.'s*** case (supra) are also being considered hereinafter. Firstly, the occurrence which has been involved in the present petition can be categorized as purely personal / criminal act of private nature. Secondly, in the present case, no injury has been caused. Thirdly, compromise is without any coercion or compulsion and has been entered into willingly and voluntarily. Fourthly, occurrence took place in the year 2017 and there is nothing on record to show that any untoward incident had taken place after the same. Fifthly, the petitioner is widowed lady of 51 years of age and the complainant has stated that he has primarily entered into compromise on account of old age of the petitioner and on account of the fact that no loss has been caused to him. Sixthly, 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 abovesaid facts and circumstances, the present Criminal Revision is allowed and judgment dated 05.09.2019 passed by the Additional Chief Judicial Magistrate, Amritsar and judgment dated 18.04.2022 passed by the Additional Sessions Judge, Amritsar are set aside and the petitioner is acquitted of the charges framed against her.

Since, the main case has been decided, application bearing CRM-16224-2022 for suspension of sentence of applicant-petitioner is rendered infructuous and is disposed of as such.

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

02.05.2022

Pawan

**(VIKAS BAHL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No