

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

237

**CRR-209-2008 (O&M)
Date of Decision: 01.02.2022**

TARLOK SINGH AND ANOTHER

... Petitioners

Versus

STATE OF PUNJAB AND OTHERS

... Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gaurav Kalsi, Advocate
for the petitioners.

Mr. Davinder Bir Singh, DAG Punjab.

Mr. Raminder Joon, Advocate
for respondents No.2 and 3.

HARNARESH SINGH GILL, J.(Oral)

Case is taken up for hearing through video conferencing.

Challenge in the present petition is to the judgment dated 16.01.2008 passed by Additional Sessions Judge, Tarn Taran, vide which the appeal preferred by the petitioners against judgment of conviction and order of sentence passed by the learned trial Court, was dismissed. Vide the judgment of conviction and order of sentence dated 16.03.1999 passed by Sub-Divisional Magistrate, Patti, petitioner No.1-Tarlok Singh was convicted for the offences punishable under Sections 326, 325 and 324/34 IPC and sentenced to undergo rigorous imprisonment for a period of 02 years and to pay a fine of Rs.200/- each, under Sections 325 and 326 and in default of payment of fine, to further undergo rigorous imprisonment for a period of one month and to undergo rigorous imprisonment for a period of 01 year under Section 324/34 IPC.

Petitioner No.2-Gurinder Singh was convicted for the offences punishable under Sections 324, 325/34 and 326/34 IPC and sentenced to undergo rigorous imprisonment for a period of 01 year each, besides payment of fine of Rs.200/- each under Sections 325/34 and 326/34 IPC. All the sentences were ordered to run concurrently.

Learned counsel for the petitioners submits that, during the pendency of the present petition, Didar Singh-complainant in the present case passed away on 13.12.2016. It is further submitted that the petitioners are on bail after their sentence was suspended vide order dated 22.02.2008 passed by a Coordinate Bench of this Court. Still further, it is submitted that now a compromise dated 06.09.2019 has been effected between the petitioners and respondents No.2 and 3 (legal heirs of the deceased-complainant). It is yet further submitted that the parties may be allowed to compound the offences on the basis of the said compromise.

In support of his contentions, learned counsel for the petitioners relies upon the judgment passed by Hon'ble Supreme Court of India in Criminal Appeal No.1489 of 2021 titled Ramgopal and Another vs The State of Madhya Pradesh, decided on 29.09.2021.

Learned counsel for respondents No.2 and 3 has not disputed the fatum of compromise arrived at between the petitioners and the said respondents.

I have heard the learned counsel for the parties.

The petitioners have been facing the agony of trial since 1995.

Admittedly, parties to the lis are co-villagers and having adjoining lands. The

complainant has expired and a compromise has been effected between the petitioners and the legal heirs of the complainant i.e. respondents No.2 and 3, meaning thereby that the dispute between the parties stands amicably settled. The offence against which the petitioners were charged are not heinous in nature.

This Court is conscious of the fact that the extra-ordinary jurisdiction vested under Section 482 Cr.P.C. is to be exercised in exceptional cases, but keeping in view the protracted trial faced by the petitioners and the fact that the compromise has been effected between the petitioners and the legal heirs of the complainant, this Court deems it a fit case to exercise such jurisdiction, to meet the ends of justice.

The Hon'ble Full Bench of this Court in case ***Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*** and Hon'ble Division Bench of this Court in case ***Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102*** observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

The Hon'ble Apex Court in the case of ***Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543*** has held as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory

limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal

proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The same view has been reiterated by Hon'ble the Apex Court in case ***Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.***

The Hon'ble Supreme Court in Ramgopal's case (supra) while considering its earlier judgments, including the one in Gian Singh's case (supra), has held as under-

“19. We, thus, sum up 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 extra-ordinary 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 purported offence and/or other relevant considerations.”

Since the parties have arrived at a compromise and have decided to live in peace, no useful purpose would be served in allowing the criminal

proceedings to continue.

Accordingly, while allowing the parties to compound the offences on the basis of the compromise, the present revision petition is allowed and all the proceedings arising out of FIR No.135 dated 30.06.1995, under Sections 326, 325, 324, 323, 34 IPC, registered at Police Station Patti, including the judgment of conviction and order of sentence dated 16.03.1999 passed by Sub-Divisional Magistrate, Patti and the order dated 16.01.2008 passed by Additional Sessions Judge, Tarn Taran, are hereby quashed, subject to payment of costs of Rs.10,000/- by the petitioners to be deposited with the Police Welfare Fund, Punjab.

Needless to say that the parties shall remain bound by the terms and conditions of the compromise dated 06.09.2019.

01.02.2022

Aman Jain

(HARNARESH SINGH GILL)

JUDGE

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>