

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

278

CRM-M-21847-2022
Decided on : 14.07.2022

Himmat Singh and others

. . . Petitioners

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sukhmeet Singh, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Jagmeet Singh Moudgil, Advocate for
Mr. A. S. Dhindsa, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 91 dated 23.06.2014 under Sections 324, 323, 148 and 149 of the Indian Penal Code, 1860 (Section 326 IPC added later on) registered at Police Station Sadar Kotakpura, District Faridkot (Annexure P-1) and judgment and order of sentence dated 16.05.2018 (Annexure P-2) and all subsequent proceedings arising therefrom on the basis of the compromise

On 19.05.2022, this Court was pleased to pass the following order:-

“This is a petition filed under Section 482 Cr.P.C. for quashing of FIR No.91 dated 23.06.2014 registered under

Sections 324/323/148/149 of the Indian Penal Code, 1860 (Section 326 of IPC has been added later on) at Police Station Sadar Kotkapura, District Faridkot (Annexure P-1) and judgment and order of sentence dated 16.05.2018 (Annexure P-2) and all the subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioners has submitted that all the persons concerned are party to the compromise. It is further submitted that against the judgment of conviction, an appeal is pending before the Additional Sessions Judge, Faridkot.

Notice of motion for 14.07.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Angraze Singh Dhindsa, Advocate appears on behalf of respondent No.2 and has reaffirmed the abovesaid facts as stated by learned counsel for the petitioners.

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 ”*

In pursuance of the said order, a report has been submitted
by the Judicial Magistrate 1st Class, Faridkot to the Registrar General

of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Statement of ASI Jaswinder Singh No.137/FDK, posted at PS Sadar Kotakpura has also been recorded to the effect that in the present case ASI Charanjit Singh was Investigating Officer, who has now retired. He has brought the police file of the present case and he is fully conversant with the details of the case. The present FIR No.91 dated 23.06.2014, under Section 324/323/148/149 IPC (Section 326 IPC added later on) was registered against accused namely Himmat Singh, Sona Singh @Gurdit Singh, Roshan Singh, Mangal Singh and Lali Singh. Out of these accused persons, accused Lali Singh was declared proclaimed person vide order dated 08.02.2016. He further stated that as per police record, neither of accused persons is involved in any other FIR. He further stated that FIR was registered on the complaint/statement of Des Raj. There was no other complainant/victim/injured in the present FIR. Original statement of ASI Jaswinder Singh has been attached herewith.

Report of Addl. Ahlmad of the Court was also called, as per which, case bearing No.CHI-353-2014 was decided by Sh. Suresh Kumar, the then Ld. JMIC, Faridkot vide judgment dated 16.05.2018 whereby accused Himmat Singh, Gurdit Singh @ Sona, Roshan Singh and Mangal Singh were convicted. Accused Lali Singh was declared proclaimed person vide order dated 08.02.2016 by the Court of Sh. Vishesh, the then Ld. CJM, Faridkot.

On the basis of statements made by the parties before me, the compromise on the face of it appears to

be genuine one having been arrived at by the parties with the intervention of respectables, which in turn is aimed at maintaining brotherhood and harmony between the parties and is thus for the welfare of the parties as well. There is nothing on the record to even doubt the genuineness of the compromise so arrived at between the parties.

With these submissions, the report with regard to the compromise is being submitted accordingly for the kind perusal of His Lordship please.

Submitted please.”

A perusal of the said report would show that it has been stated that the statements of the complainant as well as the accused have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

As per the above-reproduced report, there are five accused persons in the present case and the present petition has been filed by four accused and a prayer has been made by counsel for the petitioners as well as counsel for the complainant that the FIR qua the petitioners be quashed.

Learned counsel for the petitioners and respondent No.2 have relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another,** reported as 2012 (12) SCC 401, to contend that where there is a partial compromise with some of the accused then also, the proceedings

against the said petitioner/accused should be quashed as the same would not even remotely result in conviction of the said accused.

Learned counsel for the petitioners has also relied upon the judgment dated 04.07.2019 passed in CRM-M-16318-2015 titled as **Dalip Mandal and another Vs. State of U.T., Chandigarh and others** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

Learned counsel for respondent No. 2 has again reiterated that the matter has been settled and the said compromise is in the interest of all the persons and would help in bring out peace and amity between the parties.

Brief facts of the present case are that FIR No. 91 dated 23.06.2014 was registered against 5 persons by Desraj Singh for havaing caused injuries to him. One of the accused namely Lalit Singh was declared proclaimed person vide order dated 08.02.2016 an the trial against the present petitioners was concluded vide judgment dated 16.05.2018 vide which the petitioners were convicted as under:-

“Himmat Singh

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of fine to further undergo RI</i>
<i>326 IPC</i>	<i>Rigorous Imprisonment for 3 years</i>	<i>Rs.500/-</i>	<i>15 days</i>

<i>323 IPC r/w Section 149 IPC</i>	<i>Rigorous Imprisonment for 6 months</i>	<i>-</i>	
<i>148 IPC</i>	<i>Rigorous Imprisonment for 1 year</i>	<i>Rs.200/-</i>	<i>5 days</i>

Gurdit Singh alias Sona

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of fine to further undergo RI</i>
<i>326 IPC r/w Section 149</i>	<i>Rigorous Imprisonment for 3 years</i>	<i>Rs.500/-</i>	<i>15 days</i>
<i>323 IPC</i>	<i>Rigorous Imprisonment for 6 months</i>		
<i>148 IPC</i>	<i>Rigorous Imprisonment for 1 year</i>	<i>Rs.200/-</i>	<i>5 days</i>

Roshan Singh

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of fine to further undergo RI</i>
<i>326 IPC r/w Section 149 IPC</i>	<i>Rigorous Imprisonment for 3 years</i>	<i>Rs.500/-</i>	<i>15 days</i>
<i>323 IPC</i>	<i>Rigorous Imprisonment for 6 months</i>	<i>-</i>	<i>-</i>
<i>148 IPC</i>	<i>Rigorous Imprisonment for 1 year</i>	<i>Rs.200/-</i>	<i>5 days</i>

Mangal Singh

<i>Under Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>In default of fine to further undergo RI</i>
<i>326 IPC r/w Section 149 IPC</i>	<i>Rigorous Imprisonment for 3 years</i>	<i>Rs.500/-</i>	<i>15 days</i>
<i>323 IPC</i>	<i>Rigorous Imprisonment for 6 months</i>	<i>-</i>	<i>-</i>
<i>148 IPC</i>	<i>Rigorous Imprisonment for 1 year</i>	<i>Rs.200/-</i>	<i>5 days</i>

All the sentences shall run concurrently. Period already undergone by the convicts, if any be deducted from substantive sentence. Case property if any be dealt with under rules after expiry of period of appeal/revision. File be consigned to the record-room.”

Thereafter, an appeal against the said judgement has been filed and during the pendency of the said appeal, the present compromise dated 21.04.2022 has been effected and as per the report of the Judicial Magistrate 1st Class, Faridkot, the said compromise is genuine and has been effected voluntarily, without any coercion or undue influence.

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

Learned counsel for respondent no. 2 has admitted the fact that the matter has been compromised and stated that same is in the best interest of all the persons and would help in bringing out peace and amity between the petitioners and respondent no.2 and their family. He prayed that the present petition be allowed.

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 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 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 is enjoined upon a High Court under Section 482 Cr.P.C. which 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...

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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. Nonacceptance 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 so declared 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.”

A 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 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.

Keeping in view the law laid down in the abovesaid 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 has been involved in the present petition 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 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 petitioners have been convicted by the Judicial Magistrate Ist Class. 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, Faridkot. Fifthly, the occurrence took place in the year 2014 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the petitioners as well as respondent No. 2 are the residents of the same

village i.e. village Dana Romana, Tehsil Jaitu, District Faridkot and thus, quashing of the 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 petitioners.

Thus, keeping in view abovesaid facts and circumstances, this petition is allowed and FIR No. 91 dated 23.06.2014 under Sections 324, 323, 148 and 149 of the Indian Penal Code, 1860 (Section 326 IPC added later on) registered at Police Station Sadar Kotakpura, District Faridkot (Annexure P-1) as well as all the consequential proceedings arising therefrom are quashed, qua the petitioners. The judgment and order of sentence dated 16.05.2018 passed by the Judicial Magistrate Ist Class, Faridkot, (Annexure P-2) are set aside qua the present petitioners.

(VIKAS BAHL)
JUDGE

July 14th, 2022
Mehak

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