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

CRM-M-23172-2022

Date of decision : 22.11.2022

Pardeep and others

...Petitioners

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. S.K. Liberhan, Advocate for the petitioners.

Mr. Vishal Malik, AAG, Haryana.

Mr. Rajesh Tushar, Advocate for respondent No.2.

VIKAS BAHL, J. (ORAL)

This is a petition under Section 482 of Cr.P.C. for quashing of FIR No.132 dated 24.04.2017 registered under Sections 147, 148, 149, 323, 341 of the Indian Penal Code, 1860 at Police Station Sadar Hansi, District Hisar as well as for setting aside the judgment of conviction dated 21.10.2021 (Annexure P-2) and order on quantum of sentence dated 22.10.2021 (Annexure P-3) passed by the Sub Divisional Judicial Magistrate, Hansi and all the subsequent proceedings arising therefrom on the basis of compromise effected between the parties.

On 26.05.2022, this Court had passed the following order:-

“This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 132 dated 24.04.2017 under Sections

147, 148, 149, 323 and 341 of the Indian Penal Code, 1860 registered at Police Station Sadar Hansi, Distict Hisar (Annexure P-1) and all subsequent proceedings arising on the basis of the compromise.

Learned counsel for the petitioners as well as respondent No. 2 have submitted that against the judgment of conviction, an appeal is pending before the Additional Sessions judge, Hisar. It is further submitted that all the persons concerned are parties to the compromise.

Notice of motion for 18.07.2022.

On advance notice, Mr. Munish Sharma, AAG, Haryana, appears and accepts notice on behalf of the respondent-State and Mr. Rajesh Tushar, Advocate appears on behalf of respondent No.2.

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

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 abovesaid order, a report has been submitted by the Additional District & Sessions Judge, Hisar. The relevant portion of the said report is reproduced hereinbelow:-

“It is submitted that in the criminal appeal titled as "Naveen etc. versus State of Haryana" bearing CIS No.CRA/193/2021 and Criminal Appeal titled as Pardeep versus State of Haryana" bearing CIS No.CRA/196/2021, parties were summoned for today i.e. 07.06.2022 and statements of complainant namely Shiv Kant son of Sh.Rajbir, resident of village Ramayan, all the accused persons namely (1) Naveen son of Naurang, (2) Naresh son of Naurang, (3) Sudama son of Sita Ram, (4) Parmod son of Sita Ram, (5) Pardeep son of Phool Singh, all residents of village Ramayan, Tehsil Hansi District Hisar as well as Inspector Pavitar Singh, Station House Officer, Police Station, Sadar Hansi recorded separately to the effect that the matter has been compromised between the complainant and accused persons with the intervention of friends, relatives and respectable of societies and the compromise is genuine, voluntary and without any coercion or undue influence. It is further submitted that as per statements of the above-said persons, there are total five accused persons namely (1) Naveen son of Naurang, (2) Naresh son of Naurang, (3) Sudama son of Sita Ram, (4) Parmod son of Sita Ram, (5) Pardeep son of Phool Singh, all residents of village Ramayan, Tehsil Hansi District Hisar and all the accused persons are facing trial and none of them is proclaimed offender and no other FIR/case is pending against them.”

A perusal of the said report would show that the compromise which has been effected between the parties is genuine, voluntary, without any pressure or undue influence.

Learned counsel for the petitioners as well as respondent No.2 have jointly submitted that the matter has been compromised between the

parties and have relied upon a **judgment dated 29.09.2021** of the Hon'ble Supreme Court of India in **Criminal appeal No. 1489 of 2012** titled as **“Ramgopal and Anr. vs. The State of Madhya Pradesh”** and connected matter as well as of the 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”** to contend that in such a situation a petition under Section 482 Cr.P.C. for quashing of the FIR would be maintainable moreso, when the appeal against the order of conviction is pending before the Additional Sessions Judge.

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

The brief facts of the present case are that FIR No.132 dated 24.04.2017 was registered under Sections 147, 148, 149, 323, 341 of IPC on the complaint of respondent No.2 against the present petitioners and after the conclusion of trial, the Sub Divisional Judicial Magistrate, Hansi had, vide its judgment dated 21.10.2021 (Annexure P-2), convicted the present petitioners and vide order on quantum of sentence dated 22.10.2021 (Annexure P-3) had sentenced the present petitioners as under:-

<i>Sr. No.</i>	<i>Section</i>	<i>Sentence</i>	<i>Fine</i>	<i>Default-Sentence</i>
1	323 read with Section 149 IPC	Rigorous imprisonment for a term of six months	Rs.500/-	Two months rigorous imprisonment
2	341 read with Section 149 IPC	Simple imprisonment for a term of one month	Rs.500/-	Simple imprisonment for a term of seven days
3	147 IPC	Rigorous Imprisonment for a term of six months	Rs.500/-	Two months rigorous imprisonment

4	148 IPC	Rigorous imprisonment for a term of one year	Rs.500/-	Three months rigorous imprisonment
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All the sentences shall run concurrently. Period if any, already undergone by the convicts in custody during investigation or trial, shall however be set off against the substantive sentence awarded today.”

The petitioners have also filed two other appeals i.e. Criminal Appeal No.193 of 2021 titled as Naveen etc. Vs. State of Haryana etc. and Criminal Appeal No.196 of 2021 titled as Pardeep Vs. State of Haryana and the same are stated to be pending before the Additional District and Sessions Judge, Hisar.

During the pendency of the said appeals, the abovesaid compromise has been entered into and as per the report submitted by the Additional District and Sessions Judge, Hisar in pursuance of the order passed by this Court, it is apparent that the compromise is genuine and bona fide. The said fact has been reiterated by the counsel for the complainant in the FIR. It has also been stated that it would be in the best interest of all the persons concerned in case the petition is allowed and the FIR as well as all the subsequent proceedings arising therefrom including the judgment and order of conviction are set aside.

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 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-inlaw 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 aforesaid, 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.

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 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 petitioners have been convicted by the Sub Divisional Judicial Magistrate, Hansi. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and

voluntarily as per the report of Additional District & Sessions Judge, Hisar. Fifthly, the occurrence took place in the year 2017 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the petitioners and the respondent No.2 are both resident of Village Ramayan, Tehsil Hansi, District Hisar, Haryana 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 petitioners.

Thus, keeping in view abovesaid facts and circumstances, this petition is allowed and FIR No.132 dated 24.04.2017 registered under Sections 147, 148, 149, 323, 341 of IPC at Police Station Sadar Hansi, District Hisar is quashed and the judgment of conviction dated 21.10.2021 (Annexure P-2) and order on quantum of sentence dated 22.10.2021 (Annexure P-3) passed by the Sub Divisional Judicial Magistrate, Hansi are set aside on the basis of compromise effected between the parties, qua the petitioners.

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

22.11.2022*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**