

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Date of decision : 27.07.2022

1. CRM-M-27459-2022

Palvika Singh alias Natika alias Nitika

... Petitioner

Versus

State of Punjab and another

... Respondents

2. CRM-M-27518-2022

Palvika Singh alias Natika alias Nitika

... Petitioner

Versus

State of Punjab and another

... Respondents

3. CRM-M-27523-2022

Bhupinder Singh @ Pali and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr.Saurav Bhatia, Advocate
for the petitioners.
Mr.Sukhbeer Singh, AAG, Punjab.

Mr.Khushkaran Kumar Goyal, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This order will dispose of three petitions filed under Section
482 Cr.P.C. praying for quashing of FIR no.74 dated 28.04.2015 registered

District Moga and all other consequential proceedings arising therefrom on the basis of compromise.

The first petition, i.e. CRM-M-27459-2022 and the second petition, i.e. CRM-M-27518-2022 have been filed by Palvika Singh alias Natika alias Nitika through her special power of attorney Rajesh Kumar Kakkar and the third petition, i.e. CRM-M-27523-2022 has been filed by Bhupinder Singh @ Pali and Sandeep Kakkar.

On 27.06.2022, this Court was pleased to pass a consolidated order in the said three petitions which is reproduced hereinebelow:-

“CRM-M-27523-2022 has been filed by Bhupinder Singh @ Pali and Sandeep Kakkar for quashing of FIR No.74 dated 28.04.2015 registered under Sections 420, 506, 120-B of the Indian Penal Code, 1860 at Police Station City South Moga, District Moga as well as the order dated 17.01.2020 passed by the Judicial Magistrate Ist Class, Moga, District Moga whereby the said two petitioners have been convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1500/- each, and all the subsequent proceedings arising therefrom on the basis of compromise effected between the parties and in the said petition, it has been stated in para 3, that appeal filed against the said order, convicting and sentencing the abovesaid petitioners, is pending before the Court of Sessions Judge, Moga.

CRM-M-27459-2022 has been filed by Palvika Singh @ Natika @ Nitika through her Special Power of Attorney Rajesh Kumar Kakkar for quashing of abovesaid FIR on the basis of compromise effected between the parties.

CRM-M-27518-2022 has been filed by Palvika Singh @ Natika @ Nitika through her Special Power of Attorney Rajesh Kumar Kakkar for quashing of abovesaid FIR as well as order dated 03.01.2019 passed in the abovesaid FIR, vide which, the said petitioner has been declared as proclaimed person, on the basis of compromise effected between the parties.

Learned counsel for the petitioner(s) and respondent No.2 have submitted that in the present case, there are three accused persons and with all the said three accused persons, the matter has

*been compromised. It is further submitted that two of the accused persons namely Bhupinder Singh @ Pali and Sandeep Kakkar were convicted and appeal filed against the said conviction is pending and reliance has been placed 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**" to contend that in such a situation, the present petition would be maintainable. It is contended that there is compromise with third accused person namely Palvika Singh @ Natika @ Nitika also and a prayer has been made that Rajesh Kumar Kakkar son of Prem Kumar Kakkar be permitted to appear on behalf of Palvika Singh @ Natika @ Nitika before the trial Court in order to make statement on her behalf as Special Power of Attorney is in his favour from the said Palvika Singh @ Natika @ Nitika.*

Learned counsel for the petitioner(s) has referred to the Special Power of Attorney which is at page 27 of petition bearing No.CRM-M-27459-2022 to show that the said Rajesh Kumar Kakkar has been authorized by Palvika Singh @ Natika @ Nitika to enter into compromise or to make a statement on her behalf before the trial Court/High Court with respect to present FIR.

Notice of motion for 27.07.2022.

On asking of the Court, Mr. Sarabjit S. Cheema, AAG, Punjab appears and accepts notice on behalf of the respondent-State and Mr. Khushkaran K. Goyal, 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 three weeks.

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.

The trial Court, after taking into consideration the said Special Power of Attorney, would permit Rajesh Kumar Kakkar son of Prem Kumar Kakkar to give statement on behalf of Palvika Singh @ Natika @ Nitika and it would not be necessary to record the statement of said Palvika Singh @ Natika @ Nitika.

A photocopy of this order be placed on the files of other connected cases.

27.06.2022”

In pursuance to the said order, a report has been submitted by the Judicial Magistrate Ist Class, Moga. The relevant portion of the said report is reproduced hereinbelow:-

“In view of the statements of the parties, it is humbly submitted that in the considered view of this Court the compromise entered into by the parties is genuine and matter has been amicably settled with the intervention of respectables and compromise is for the welfare of both the parties. The statements of parties in original along with photocopies of their I-cards are being sent enclosed herewith for kind perusal of Hon'ble high Court.

Encls: As above.

Yours faithfully,

*(Kulwinder Kaur, PCS),
Judicial Magistrate Ist Class,
Moga. UID No.PB-0492. ”*

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 counsel for the State of Punjab has opposed the present petition for quashing and submitted that in the present case, the petitioners Bhupinder Singh @ Pali and Sandeep Kakkar, who have filed CRM-M-27523-2022, have already been convicted.

Learned counsel for respondent no.2 has submitted that the matter has been compromised without any coercion or undue influence and he has also prayed that all the three petitions be allowed and the FIR be quashed and judgment of conviction and order of sentence dated 17.01.2020 passed against petitioners Bhupinder Singh @ Pali and Sandeep Kakkar be set aside and the order declaring the petitioner Palvika Singh @ Natika @ Nitika as proclaimed person be set aside.

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 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 has further been observed that criminal proceedings involving non henious 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.

A Coordinate Bench of this Court in ***Ram Parkash's*** case (*supra*), has allowed a case 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.”

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 above said 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 above said judgment, more so, the judgment of the Hon'ble Supreme Court in **Ramgopal & Anr's case (supra)**, the relevant parameters for consideration as laid down in 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, in the present case no injury has been caused to any person. Thirdly, since no injury has been caused and the quashing of proceedings would not override public interest, thus, it is immaterial that the petitioners Bhupinder Singh @ Pali and Sandeep Kakkar have been convicted by the Judicial Magistrate Ist Class, Moga. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily. Fifthly, the occurrence took place in the year 2015 and there is nothing to show that any untoward incident has taken place after the same. 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 petitioners.

Thus, keeping in view the above said facts and circumstances, the present three petitions are allowed and FIR no.74 dated 28.04.2015 registered under Sections 420, 506, 120-B IPC at Police Station City South Moga District Moga and all other consequential proceedings arising therefrom are quashed and the judgment of conviction and order of sentence dated 17.01.2020 are set aside and the order dated 03.01.2019 passed by the Judicial Magistrate Ist Class, Moga declaring the petitioner Palvika Singh @ Natika @ Nitika as proclaimed person is set aside.

July 27, 2022.

Davinder Kumar

(VIKAS BAHL)
JUDGE

Whether speaking / reasoned
Whether reportable

Yes/No
Yes/No