

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRM-M No. 26888 of 2020
Reserved on: 01.04.2022
Pronounced on: 02.04.2022

Jasbir SinghPetitioner

Vs.

State of Punjab and othersRespondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Anshul Sharma, Advocate for
Mr. Gursimran Singh Madaan, Advocate for the petitioner.

Ms. Jaspreet Kaur, AAG, Punjab.

Mr. Surinder Sharma, Advocate for respondent No. 2.

Mr. Apurva Rathee, Advocate for respondent No. 3.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
1	10.01.2013	NRI, Jalandhar	420, 465, 467, 471, 120-B, 380 IPC

Criminal Case no. before trial Court	CIS Case No. CHI/88816/13 CNR No. PBJL03-002671-2013 Date of decision and order on quantum of Sentence: 12.10.2018
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The petitioner, who stands convicted in the trial for the FIR captioned above, has come up before this Court under Section 482 CrPC for quashing the judgment of conviction, sentence, charges, and the FIR, based on the compromise with the victim, with the following prayer clause:

“It is, therefore, respectfully prayed that the present petition of the petitioners may kindly be accepted, and the mentioned FIR No. 445 dated 17.11.2009,

under Sections 382, 323, 34 of Indian Penal Code, 1860 registered at Police Station Division Jalandhar, Punjab (Annexure P-1), judgment dated 20.08.2015, passed by learned Judicial Magistrate Ist Class, Jalandhar in case titled as "State Versus Davinder Kumar and others" bearing "Case No. 85380/2013" and subsequent proceeding arising thereof may kindly be quashed on the basis of compromise dated 24.07.2017.

That the petitioners may kindly be exempted from filing certified and legible copies of Annexure P-1 to P-3 and be further allowed to place on record true translated copies of Annexure P-1 and true photocopy of Annexure P-2 to P-3.

It is further prayed that further proceedings in the case may kindly be stayed during the pendency of this petition in view of the compromise."

2. The gist of the allegations against the petitioner(s) is that above mentioned FIR was registered by the complainant against the petitioner for forcible possession of his land and house and further leasing a portion of it to BSNL and accruing rent from it. The petitioner along with other co-accused was prosecuted and learned trial Court convicted them vide its judgment dated 12.10.2018. The petitioner preferred an appeal against the same.
3. During pendency of appeal, the petitioner/convict and the aggrieved person/complainant have entered into an out of Court compromise. They have annexed the copy of the compromise with this petition as Annexure P-3.
4. Subsequent to that, the petitioner came up before this Court to quash the FIR, and in the quashing petition, the victim(s) have been impleaded as respondent(s).
5. On the prayer of the parties in the present petition, the Court had permitted the parties to appear before the concerned Court to record their statements. On 15-03-2022, the complainant/ aggrieved person Narender Pal Singh (R-2), stated before the CJM NRI Court, Jalandhar that there would be no objection if the court quashes this FIR and consequent proceedings. Similarly, Jagjit Singh, power of attorney holder of the complainant Narinder Pal Singh admitted to the compromise in terms of the statement given in the court. The accused Jasbir Singh also made a similar statement on 15-3-2022 before CJM, NRI Court, Jalandhar. As per the concerned court's report dated 25-03-2022, the parties consented to the quashing of FIR and consequent proceedings without any threat; however, the acquitted accused Seema Rani did not appear for compromise.
6. The report dated 25-03-2022 of Id. Chief Judicial Magistrate (NRI) Court, Jalandhar, concludes as follows:

- “a) That as per the directions given by the Hon’ble High Court the accused Jasbir Singh and the power of attorney of the complainant namely Jagjit Singh appeared in person. The complainant Narinder Pal Singh appeared through video conference. The identity of the individuals was duly established to the satisfaction of the trial Court.*
- b) That the present FIR has been registered against two accused namely Jasbir Singh and Seema Devi.*
- c) That as per the statement of the Investigating Officer none of the accused has been declared as a proclaimed offender.*
- d) That all the parties named in the FIR have not made their statements regarding the compromise. It is submitted that vide Judgment dated 12.10.2018 passed by the then learned Chief Judicial Magistrate (NRI Court), Jalandhar, Jasbir Singh was convicted whereas co-accused Seema Rani was acquitted. The said co-accused Seema Rani did not turn up and suffer any statement towards compromise although she has been named in the FIR.*
- e) That as per the statement of the parties the compromise is genuine, voluntary, without any coercion or undue influence.*
- f) That as per the statement of the Investigating Officer the accused are not involved in any other case.*
- g) That an appeal against the Judgment dated 12.10.2018 filed by accused Jasbir Singh and another appeal against the Judgment dated 12.10.2018 filed by the complainant Narinder Pal Singh against the acquittal of Seema Rani are pending consideration before the Court of learned Additional Sessions Judge, (NRI Court), Jalandhar.*
- h) It is further submitted that the signed scanned copy of the statement of the complainant Narinder Pal Singh sent by him through post has not been received as yet by the undersigned. The same shall be submitted before the Hon’ble High Court as and when the copy is received by the Court of the undersigned. However, it is submitted that the report is submitted by the undersigned as the next date of hearing before the Hon’ble High Court is 01.04.2022.”*

ANALYSIS & REASONING:

7. Despite the severe opposition of the State’s counsel to this compromise, the following aspects would be relevant to conclude this petition: -

- a) The convict Jasbir Singh, petitioner herein, and the private respondent have amicably settled the matter between them in terms of the compromise deed and the

statements recorded before the concerned Court. Although the other accused Seema Rani did not compromise, but she was acquitted in the trial. Thus, even if she did not compromise, it would not create any bar for the convict not to compromise the matter and seek quashing of his conviction based on such compromise.

- b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;
- c) The complainant /aggrieved person has willingly consented to the nullification of criminal proceedings;
- d) There is no objection from the complainant /aggrieved person in case present FIR and consequent proceedings are quashed;
- e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;
- f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;
- g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, and professional offender;
- h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, and society;
- i) The exercise of the inherent power for quashing the conviction, sentence and all previous proceedings are justified to secure the ends of justice.

8. The matter primarily is also of civil nature and there is no embargo to close the proceedings on the basis of the compromise entered into between the parties.

JUDICIAL PRECEDENTS ON QUASHING OF CONVICTION BASED ON COMPROMISE:

9. In Ram Prasad and Another v. State of Uttar Pradesh, Cr.A Nos. 308-309 of 1980, decided on April 21, 1980, Hon'ble Supreme Court converted the conviction from 307 IPC to 324 IPC and after that based on compromise, accepted the compounding of offence under section 324 IPC and acquitted the appellants.

10. In Ramji Lal v. State of Haryana, (1983) 1 SCC 368, Hon'ble Supreme Court, in a matter arising against the conviction under section 325 IPC, held,

[5]. All the offences for which the appellants are convicted are compoundable and the compromise can be entered into with the permission of the court. Looking to the chastened attitude of the accused and the commendable attitude of the injured complainant, in order to restore harmony in the society, we accept the compromise. We grant permission to enter into the

compromise and accept the same. We accordingly allow the appeal and set aside the conviction and sentence imposed on both the appellants. If they are on bail, their bail-bonds will be cancelled. If they are in jail, they will be released from the jail forthwith.

11. In Mohd. Rafi v. State of U.P., 1998(2) R.C.R.(Criminal) 455, Supreme Court, the convict had gone to Hon'ble Supreme Court against his conviction by the trial Court under Sections 323 and 325 of IPC, which was upheld by Sessions and High Court. After that, the convict and the victim entered into an out-of-court compromise. Hon'ble Supreme Court analyzed the parties' affidavits filed in support of the compromise and observed that parties had willingly and voluntarily settled the matter. To maintain good relations, Hon'ble Supreme Court granted permission to them to compound the said offenses and order the acquittal.

12. In Parameswari v. Vennila, (2000) 10 SCC 348, the appellants before Hon'ble Supreme Court had been convicted under Section 494 read with Section 109 of IPC. After that, they arrived at a settlement with the complainant, in the presence of panchayatdars of their village, and placed on record the duly signed compromise, and parties filed a joint application for permission to compound the offences. While observing that the offence involved was compoundable with the wife's consent and permission of the Court, Hon'ble Supreme Court granted permission to compound the offence, and resultantly the appellants stood acquitted of the offence for which they have been held guilty.

13. In M.D. Balal Mian v. State of Bihar, 2001 AIR (SCW) 5190, out of three convicts, one was convicted under Section 376 IPC, and the other two were convicted only under Sections 325 & 323 of IPC. After the High Court confirmed the conviction and sentence, all three convicts approached Hon'ble Supreme Court. Although Hon'ble Supreme Court did not find any scope for granting special leave by the convict challenging his conviction under section 376 IPC, however, granted the other permission to the other two convicts to compound the offences under Section 320 (8) of the Criminal Procedure Code and acquitted both of them.

14. In Vuyyuru Ramachandra Rao v. State of Andhra Pradesh, 2001 AIR (SCW) 2396, the appellant had approached the Hon'ble Supreme Court against upholding the conviction under section 354 IPC. The victim of molestation came to terms with the convict and applied to compound the offence. Hon'ble Supreme Court allowed such application for compounding and resultantly acquitted the appellant under Section 320 (8) of the Criminal Procedure Code.

15. In Khursheed and others v. State of U.P., Appeal (crl.) 1302 of 2007, decided on 28-9-2007, the appellants were convicted by Trial Court under sections 325, 323 read with 34 IPC. Their appeal against conviction was dismissed by the Sessions Court and revision petition was also dismissed by High Court. The convicts approached the Apex Court and Hon'ble Supreme Court held,

[12]. An offence of causing grievous hurt punishable under Section 325 IPC is covered by sub-section (2) of Section 320 of the Code. It is thus clear that an offence punishable under Section 325 IPC is also compounded with the permission of the Court.

[13]. The parties have compounded the offences. As stated in the compromise deed, Gurfan Ahmad, complainant and his mother Kulsoom @ Bhoori (injured) did not want any action against the appellants (accused). The parties are neighbours, their houses are situated adjacent to each other and they have been living peacefully for last many years and there is no dispute among them. It is further stated that to continue sweet relationship and harmony, complainant side does not want to take any action against the accused. A prayer is, therefore, made to accept the compromise.

[14]. On the facts and in the circumstances of the case, and considering the Deed of Compromise and having heard learned counsel for the parties, in our opinion, ends of justice would be met if we grant necessary permission for compounding an offence punishable under Section 325 read with Section 34 IPC as required by sub-section (2) of Section 320 of the Code. The offence punishable under Section 323 IPC has already been compounded by the parties.

[15]. Sub-section (8) of Section 320 states that the compounding of offence under the section shall have an effect of acquittal of the accused with whom the offence has been compounded. The resultant effect of compounding of offences would be that the accused should be acquitted. In other words, once the offences have been compounded and the requisite permission is granted by the Court, the accused must be acquitted.

16. In Manoj &Anr. v. State of Madhya Pradesh, Cr. A No. 1530 of 2008, Hon'ble Supreme Court, based on compromise, accepted the compounding of the offence under section 324 IPC and acquitted the appellants.

17. In Surat Singh v. State of Uttaranchal (Now Uttarakhand), 2012(12) SCC 772, Hon'ble Supreme Court, based on compromise, permitted the parties to compound their offences under section 354 and 506 IPC.

18. In Dasan v. State of Kerala, (2014) 12 SCC 666, the Hon'ble Supreme Court converted the conviction from 326 IPC to 325 IPC and, based on compromise, accepted the compounding of the offence under section 325 IPC and acquitted the appellant.

19. In Deva Ram v. State of Rajasthan, (2014) 13 SCC 275, the appellant was convicted by Trial Court under section 420 IPC. His appeal against conviction was dismissed by the Sessions Court and revision petition was also dismissed by High Court. The convict approached the Apex Court and Hon'ble Supreme Court held,

[5]. We are informed that out of two years imprisonment the appellant has undergone six months imprisonment. Offence under Section 420 of the IPC is compoundable with the permission of the court by the person who is cheated. Since the parties are related to each other and they have decided to accord a quietus to their disputes and live peacefully, we permit them to compound the offence. Hence, the offence under Section 420 of the IPC for which the appellant was convicted is compounded because it is compoundable with the permission of the court. The appellant is acquitted of the said charge.

20. In Ravinder Kaur v. Anil Kumar, (2015) 8 SCC 286, Hon'ble Supreme Court, in a matter arising out of conviction, permitted the compounding of offence under section 494 IPC.

21. In Sube Singh v. State of Haryana, 2013 (4) RCR (Cri) 102, a Division Bench of this Court holds,

[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.

[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. In Shakuntala Sawhney v Kaushalya Sawhney, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

23. This Court has inherent powers under Section 482 of the Code of Criminal Procedure to interfere in this kind of matter.

24. In the entirety of the case and judicial precedents, I am of the considered opinion that the continuation of these proceedings will not serve any fruitful purpose whatsoever. Given above, because of the compromise, and in the facts and circumstances peculiar to this case the above captioned judgment(s) of conviction and sentence, charges, and FIR, are hereby quashed qua the petitioner(s). However, the fine amount is forfeited to the State as cost incurred by it. The bail bonds of the petitioner are accordingly discharged. All pending application(s), if any, stand closed.

(ANOOP CHITKARA)
JUDGE

02.04.2022
Jyoti-II

Whether speaking/reasoned:	Yes
Whether reportable:	No.