

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

(Sr. No. 259)

CRM-M No. 32853 of 2020

Date of decision : 20.05.2022

Sunil Sharma

.....Petitioner

Versus

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL

Present : None for the petitioner.

Mr. Gaurav Bansal, AAG, Haryana.

None for respondent No.2.

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DEEPAK SIBAL, J. (Oral)

Respondent No.2 - Kalpana filed a complaint with the police as per which her mother-in-law, father-in-law and husband (the petitioner) had demanded dowry and given her beatings. After investigation the police filed a report under Section 173 Cr.P.C. seeking therein to prosecute only the petitioner for offences under Sections 498-A, 406, 323, 506 and 34 IPC. The parents of the petitioner were declared innocent. On the basis of said report the Trial Court framed charges against and then tried the petitioner. After the trial the petitioner was held guilty of having committed offences under Sections 498-A and 323 IPC and was sentenced. The petitioner appealed against his conviction and sentence during the pendency whereof the petitioner and the complainant amicably resolved their matrimonial dispute and on such basis, through the present petition, the petitioner seeks

setting aside of his conviction.

In terms of the order of this Court dated 15.10.2020, a report dated 24.11.2020 by the Judicial Magistrate First Class, Narnaul has been received as per which the compromise arrived at between the petitioner and the complainant is opined to be genuine.

The Supreme Court in ***Ramgopal and another versus State of Madhya Pradesh 2021 (4) R.C.R. (Criminal) 322*** has held as follows:-

10. The compendium of these broad fundamentals structured in more than one judicial precedent, has been recapitulated by another 3-Judge Bench of this Court in *State of Madhya Pradesh v. Laxmi Narayan* elaborating:

*“(1) That the power conferred under Section 482 of the Code to quash the criminal proceedings for the noncompoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of **matrimonial relationship** or family disputes and when the parties have resolved the entire dispute amongst themselves;*

(2) Such power is not to be exercised in those prosecutions which involved heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. Such offences are not private in nature and have a serious impact on society;

(3) Similarly, such power is not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender;

(4) xxx xxx xxx

(5) While exercising the power under Section 482 of the Code to quash the criminal proceedings in respect of non-compoundable offences, which are private in nature and do not have a serious impact on society, on the ground that there is a settlement/compromise between the victim and the offender, the High Court is required to consider the antecedents of the accused; the conduct of the accused, namely, whether the accused was absconding and why he was absconding, how he had managed with the complainant to enter into a compromise, etc.”

11. True it is that offences which are ‘non-compoundable’ cannot be compounded by a criminal court in purported exercise of its powers under Section 320 Cr.P.C. Any such attempt by the court would amount to alteration, addition and modification of Section 320 Cr.P.C, which is the exclusive domain of Legislature. There is no patent or latent ambiguity in the language of Section 320 Cr.P.C., which may justify its wider interpretation and include such offences in the docket of ‘compoundable’ offences which have been consciously kept out as non-compoundable. Nevertheless, the limited jurisdiction to compound an offence within the framework of Section 320 Cr.P.C. is not an embargo against invoking inherent powers by the High Court vested in it under Section 482 Cr.P.C. The High Court, keeping in view the peculiar facts and circumstances of a case and for justifiable reasons can press Section 482 Cr.P.C. in aid to prevent abuse of the process of any Court and/or to secure the ends of justice.

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 noncompoundable. 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 pre-dominantly 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 extra-ordinary 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 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 the purported offence and/or other relevant considerations.”

(Emphasis supplied)

As per the afore quoted judgment of the Supreme Court in ***Ramgopal's*** case (supra) criminal cases involving non-heinous offences or where they are predominantly of a private nature can be quashed by the High Court in exercise of its powers under Section 482 Cr.P.C. on the basis of a compromise between the accused and the complainant and that such powers can be exercised even if the trial of the accused has concluded in his conviction or even if appeal against such conviction has been dismissed. However, such power has to be exercised by the High Court with rectitude and after satisfying itself with regard to the genuineness of the compromise with due regard to the nature/seriousness of the offence(s) in question besides the conduct of the accused before and after the incident.

The law laid down by the Supreme Court in ***Ramgopal's*** case (supra) fits like a glove to the facts of the instant case as the petitioner's conviction originates from a matrimonial dispute; the offences for which the petitioner stands convicted are not heinous; before or after the incident the State or the complainant has not even questioned the conduct of the petitioner and that in the light of the report given by the Judicial Magistrate First Class, Narnaul the compromise arrived at between the petitioner and

the complainant is genuine.

In view of the above discussion and in the peculiar facts of the present case as also in line with the law laid down by the Supreme Court in ***Ramgopal's*** case (supra), to secure the ends of justice, FIR No.461 dated 12.09.2013 registered under Sections 498-A, 406, 323, 506 and 34 IPC at Police Station City Narnaul, district Mahendergarh as also orders dated 06.02.2018/07.02.2018 passed by the Trial Court convicting and sentencing the petitioner under Sections 498-A and 323 IPC are set aside.

The present petition is allowed in the above terms.

20.05.2022

sunil yadav

**(DEEPAK SIBAL)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No