

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM-M-38190-2021

Date of decision : 16.09.2022

Ram Lal

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM: HON'BLE MR.JUSTICE VIKAS BAHL

Present: Mr.P.K.S. Phoolka, Advocate
for the petitioner.

Mr.Iqbal S. Mann, DAG, Punjab.

Mr. Davinder Kumar, Advocate
for respondent no.2.

VIKAS BAHL, J.(ORAL)

This is a petition under Section 482 Cr.P.C. praying for quashing of FIR no.18 dated 30.01.2015 registered under Section 420 IPC at Police Station Civil Lines, Bathinda, District Bathinda as well as judgment of conviction and order of sentence dated 01.08.2018 whereby the petitioner has been convicted under Section 420 IPC by the Chief Judicial Magistrate, Bathinda and all other subsequent proceedings arising therefrom on the basis of compromise.

Learned counsel for the petitioner has submitted that the above said FIR was registered against the present petitioner and the petitioner was convicted by the Chief Judicial Magistrate, Bathinda vide judgment dated 01.08.2018 and against the said judgment, the appeal is pending before the Court of Additional Sessions Judge, Bathinda. It is further submitted that

during the pendency of the said appeal, the matter has been compromised. This Court vide order dated 29.11.2021 had directed the parties to get their statements recorded in view of the compromise and in pursuance of the same, the report has been sent by the Chief Judicial Magistrate, Bathinda, to the effect that the compromise is genuine and bonafide. Learned counsel for the petitioner has 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 in support of his arguments.

Learned State counsel has stated that in the present case the petitioner has already been convicted and has, thus, opposed the present petition under Section 482 Cr.P.C.

Learned counsel appearing for respondent no.2 has reiterated the fact that the matter has been compromised and has submitted that he has no objection in case the present petition is allowed and the FIR and all the subsequent proceedings arising therefrom are quashed and the judgment and order of sentence dated 01.08.2018 is set aside.

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

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 above said judgment would show that it has been held that extra ordinary power is enjoined upon a High Court under Section 482 Cr.P.C. that 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

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.

In the present case, the petitioner was made an accused in FIR no.18 dated 30.01.2015 and was convicted under Section 420 IPC by the Chief Judicial Magistrate, Bathinda vide judgment dated 01.08.2018 and was sentenced as under:-

“Convicted U/s

Sentence Awarded

420 IPC

Rigorous imprisonment for three years and to pay fine of Rs.10,000/-. In default of payment of fine, further undergo rigorous imprisonment for six months.

However, the period of detention, if any, already undergone by convict during course of investigation and trial of this case, shall be set off towards substantive sentence awarded to him as per Section 428 Cr.P.C. Case property, if any, be dealt with as per rules after expiry of period of appeal/revision, if any.”

The appeal against the said judgment is stated to be pending before the Additional Sessions Judge, Bathinda. It is the case of the petitioner and respondent no.2 that during the pendency of the above said appeal, a compromise has been effected and accordingly, this Court vide order dated 29.11.2021 was pleased to pass the following order:-

“As per the report of the Chief Judicial Magistrate, Bathinda, none of the parties had appeared for recording their statements on 28.10.2021.

Learned counsel for the petitioner has submitted that there was some communication gap on account of which statements were not recorded and prays for one last opportunity for the parties to appear before the trial Court to record their statements.

In view of the above, one last opportunity is granted to the parties to appear before the trial Court for recording of their statements.

Adjourned to 12.01.2022.

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.*

(VIKAS BAHL)
JUDGE

November 29, 2021.”

In pursuance of the said order, the Chief Judicial Magistrate, Bathinda has submitted its report. The relevant portion of which is reproduced hereinbelow:-

“As per the directions of Hon'ble High Court, the report is as under:

- 1. In view of the statements of complainant as well as Investigating Officer, only one person i.e. petitioner Ram Lal is arrayed as accused in the present case FIR.*
- 2. In view of statement of petitioner as well as Investigating Officer, no accused has been declared proclaimed offender.*
- 3. In view of the statements of parties, the statement of parties appears to be bonafide. The statements have been suffered by the parties are genuine, voluntary and out of their free will and same are not the result of any pressure, undue influence or coercion in any manner.*
- 4. In view of the statement of petitioner/accused, except the present case FIR, one more FIR bearing FIR No.120 dated 08.10.2013, Under Sections 420, 465, 467, 468, 471 IPC, P. S. Nehianwala, Bathinda was registered against him and he had been convicted in this case FIR.*
- 5. In view of the statements of Investigating Officer, except complainant/respondents No. 2 Jugpreet Singh, there is no other*

complainant/victim in the present case FIR.

Photostat copies of statements of complainant as well as accused/petitioner and Investigating Officer and compromise Mark A, are enclosed herewith.

The report is submitted for his Lordships perusal, please.”

A perusal of the report would show that it has been found that compromise between the parties is genuine and bonfide and is entered into without any influence or pressure.

Keeping in view the law laid down in the above said judgments, 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, in the present case there is no injury caused to any person and the quashing of the criminal proceedings would not override public interest and thus, it would immaterial that the petitioner has been convicted by the Chief Judicial Magistrate, Bathinda. Thirdly, the compromise has been entered into is willingly and voluntarily. Fourthly, the occurrence had taken place in the year 2011 and the FIR was registered in the year 2015 and there is nothing to show that any untoward incident has been taken place after the same. Fifthly, the petitioner and the complainant are residents of adjoining places and thus, quashing of the present proceedings would bring peace and harmony among the parties. 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 petitioner.

Thus, keeping in view the above said facts and circumstances,

the present petition is allowed and the FIR no.18 dated 30.01.2015 registered under Section 420 IPC at Police Station Civil Lines, Bathinda, District Bathinda and all the subsequent proceedings arising therefrom are quashed and judgment of conviction and order of sentence dated 01.08.2018 passed by the Chief Judicial Magistrate, Bathinda are set aside.

(VIKAS BAHL)
JUDGE

September 16, 2022
Davinder Kumar

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