

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CRM-M-37714-2021
Decided on :05.04.2022

Suraj Singh

. . . Petitioner

Versus

State of Punjab and another

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Bhavesh Aggarwal, Advocate
for the petitioner.

Mr. Sarabjit S. Cheema, AAG, Punjab.

Mr. Vivek Singla, Advocate for
Ms. Kiran, Advocate
for respondent No. 2.

VIKAS BAHL, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing of FIR No. 15 dated 18.01.2018 under Sections 323, 324, 148 and 149 of the Indian Penal Code, 1860 (Sections 326 and 201 IPC added later on) as well as for setting aside the judgment of conviction and order of sentence dated 11.10.2019 passed by the Principal Magistrate, Juvenile Justice Board, Ludhiana vide which the petitioner had been convicted and sentenced to stay at special home for a period of two years and to pay a fine of Rs.1,000/- and all subsequent proceedings arising therefrom qua the petitioner only on the basis of the compromise.

Learned counsel for the petitioner has submitted that in the

present case, FIR was registered against two named persons and three unnamed persons. The petitioner was named as an accused and the petitioner was a juvenile on the date of the alleged incident and was thus, alone tried and it is further submitted that the petitioner alone has been convicted by the Juvenile Justice Board, Ludhiana vide judgment dated 11.10.2019 (Annexure P-2) and the appeal against the said judgment is pending before the Sessions Judge, Ludhiana. It is further submitted that the other accused are major and the compromise between them and the respondent No. 2 has already been effected and they would subsequently file a separate petition for quashing of the proceedings. It is contended that the compromise in the present case is genuine and bona fide and it will bring about peace and amity between the parties.

Learned counsel for the petitioner has further relied upon the *judgment dated 29.09.2021* passed by the Hon'ble Supreme Court in *Criminal Appeal No. 1489 of 2012 titled Ram Gopal and antoher Vs. State of Madhya Pradesh.*

Learned counsel 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 qua the petitioner is quashed and the judgment of conviction is set aside.

Learned State counsel has, however, opposed the present petition by stating that the petitioner has already been convicted for the offences as alleged in the FIR.

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

On 13.09.2021, a Coordinate Bench of this Court was pleased to pass the following order:-

“The matter has been taken up through video conferencing.

Notice of motion.

Mr. J. S. Ghumman, DAG, Punjab and Ms.Renu Soni, Advocate, accept notice on behalf of respondent No.1 and respondent No.2 respectively.

Learned counsel for the petitioner undertakes to supply a complete set of the paper book to learned counsel for the respondents during the course of the day.

Through the present petition filed under Section 482 Cr.P.C. the petitioner seeks quashing of FIR No.15 dated 18.01.2018 registered under Sections 323/324/148/149 IPC (Sections 326 and 201 IPC added later on) at Police Station Payal, District Khanna on the strength of a written compromise dated 02.09.2021 (Annexure P-3) entered into between the parties.

The petitioner as also respondent No.2 through their counsel are directed to appear before the Illaqa Magistrate/Trial Court on 23.09.2021 to get their statements recorded to the effect that the compromise has actually been arrived at between them. After recording of the statements, the Trial Court would furnish to this Court its report alongwith the recorded statements on or before the adjourned date, clearly opining therein with respect to the veracity of the compromise, if any, between the parties.

The Illaqa Magistrate/Trial Court would also apprise this Court whether all the accused are party to the compromise and whether any of the accused have ever been declared proclaimed offender(s) and if is there any other criminal case pending against them.

To await the report of the Illaqa Magistrate/Trial Court adjourned to 02.12.2021.

In pursuance of the said order, a report has been submitted by the Principal Magistrate Juvenile Justice Board, Ludhiana to the Registrar General of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“Accordingly, the statements of the complainant/respondent Jashanpreet Singh S/o Kulwinder Singh, R/o # 1706, Ward No. 11, Tehsil Payal and District Ludhiana and juvenile/petitioner Suraj Singh aged about 21 years S/o Bohar Singh, R/o # 1553, Ward No. 9, Police Station Payal, Tehsil Payaland, District Ludhiang have been recorded. In their separate statements, both the parties admitted the genuineness of the compromise arising between them. So, from the statements of the parties, it appears to the court that the parties have been compromised the matter out of their free Will, voluntarily, without any sort of pressure, coercion and fear.

As per statement of the parties, no PO proceedings are pending against the petitioner/juvenile. Further as per statement of Investigating Officer, except the juvenile, there are three more persons i.e. Rajvinder Singh @ Laadi S/o Kesar Singh, Rajvir Singh S/o Darshan Singh and Gurvinder Singh S/o Balvir Singh arrayed as accused in the present FIR. Except the above said persons, no other person arrayed as accused in the present FIR.

As per statement of the parties, except the present case, no other case is pending between them.

It is further submitted that, vide order and judgment dated 11.10.2019 passed by the Juvenile Justice Board, Ludhiana, juvenile Suraj has been convicted and appeal against the above said order and judgment is pending in the Court of Sh. Munessh Arora, Ld. ASJ, Ludhiana, which is fixed for 28.02.2022 for arguments.

The statement of the complainant alongwith the statement of juvenile are being sent with this report for your's Honours kind perusal ”

A perusal of the said report would show that it has been stated therein that the statements of the complainant as well as the petitioner have been recorded in the case and both have stated that the matter has been compromised and they have no objection in case the FIR is quashed. It is further stated that the statement of the complainant has been made voluntarily without any fear, coercion or pressure.

As per the above-reproduced report, other than the present petitioner, there are other accused also who are not petitioners in the present case.

Learned counsel for the petitioner has relied upon the judgment of the Hon'ble Supreme Court titled as **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as 2012 (12) SCC 401, to contend that where there is a partial compromise with some of the accused then also, the proceedings against the said petitioner/accused should be quashed as the same would not even

remotely result in conviction of the said accused.

Learned counsel for the petitioner has also relied upon the judgment dated 04.07.2019 passed in **CRM-M-16318-2018** titled as **Dalip Mandal and another Vs. State of U.T., Chandigarh and others** in which case, the Co-ordinate Bench of this Court was pleased to allow the petition qua the petitioners only although, the matter had not been compromised between all the parties.

The Hon'ble Supreme Court of India in **Criminal Appeal No. 1489 of 2012** titled as **Ramgopal & Anr. vs. The State of Madhya Pradesh** 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 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. 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 P1) 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 so declared 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 Co-ordinate 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” as 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 for adjudicating the present matter. Firstly, the alleged occurrence involved in the present case can be categorized as a 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 Principal Magistrate, Juvenile Justice Board, Ludhiana. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Principal Magistrate, Juvenile Justice Board, Ludhiana. Fifthly, the occurrence took place in the year 2018 and there is nothing to show that any

untoward incident at the hands of the petitioner 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 petitioner.

Thus, keeping in view the abovesaid facts and circumstances, the present petition is allowed and FIR No. 15 dated 18.01.2018 under Sections 323, 324, 148 and 149 of the Indian Penal Code,1860 (Sections 326 and 201 IPC added later on) and all subsequent proceedings arising therefrom on the basis of the compromise, are ordered to be quashed, qua the petitioner and the judgement and order of sentence dated 11.10.2019 (Annexure P-2) is set aside and the petitioner is acquitted of the charges framed against him.

(VIKAS BAHL)
JUDGE

April 5th, 2022
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Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No