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In the High Court of Punjab and Haryana at Chandigarh

CRM-M-1117-2021

Date of Decision: 05.07.2022

BALJIT SINGH TIBBI

.....Petitioner

Versus

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR

Present: Mr. Ripudaman Singh Sidhu, Advocate
for the petitioner.

Mr. Bhupender Beniwal, AAG, Punjab

Mr. N.S. Gill, Advocate
for respondent No.2.

SURESHWAR THAKUR, J. (ORAL)

1. The accused faced trial for charges drawn under Sections 452, 324, 506 of the IPC. The learned Judicial Magistrate Ist Class, Patiala, upon FIR No.104 of 22.06.2014, proceeded to, vis-a-vis, the afore drawn charges against the accused, made a verdict of conviction, upon him, and, also proceeded to impose, upon the convict, sentence of rigorous imprisonment extending upto period of two years and, also imposed a fine of Rs. 500/-, and, further ordered that upon default of payment of fine, the convict shall undergo simple imprisonment for a period of one month.

2. The afore drawn verdict of conviction and consequent therewith sentences (supra), as made upon the convict, became appealed by the latter, before the learned Sessions Judge, Patiala. However, during the pendency of the afore appeal before the learned Sessions Judge, Patiala, the petitioner rather accesses this Court, through his casting a petition under the

provisions of Section 482 Cr.P.C., hence seeking relief that all the

consequential proceedings, as arise, from FIR No.104 of 22.06.2014, constituting therein offences embodied in Sections 452, 324, 506 of the IPC, be quashed and set aside, pointedly on anvil of the apposite compromise drawn between the complainant, and, the accused. The compromise is enclosed with the petition as Annexure P-4.

3. This Court through an order made on 25.03.2021 had directed the learned trial Court/Illaq Magistrate, to make a report to this Court, with respect to the voluntariness and genuineness of the afore compromise, as, became drawn amongst the complainant, and, the accused. The learned trial Court/Illaq Magistrate concerned, after recording the statements of the accused, and, of the respondent, has proceeded to make a report, to this Court, that the afore drawn compromise amongst them, is with their free will and consent, and also is without any fear, threat, and pressure being exerted upon each other.

4. The learned counsel for the petitioner, as well as the learned counsel for respondent No.2, submits at the bar that all concerned have appended their respective signatures on the compromise deed.

5. The learned State Counsel submits, that the mandate of Section 482 Cr.P.C. cannot be recoured after a verdict of conviction, being drawn by the learned Magistrate concerned against the convict, moreso when the latter's appeal thereagainst is *subjudice* before the learned Sessions Judge, Patiala.

6. However, the afore made submission is denuded of its vigour, in the face of a verdict rendered by the Hon'ble Apex Court, upon, ***Criminal Appeal No. 1489 of 2012***, titled as ***“Ram Gopal and another Vs. State of Madhya Pradesh”***. In the afore judgment (supra), the Hon'ble Apex Court

became seized with a factual matrix, similar to the one, as exists before this Court, inasmuch as, after pronouncement of a verdict of conviction, by the learned trial Court concerned, upon the accused-convict therein, the latter appealing there against before the learned Appellate Court concerned. Pointedly, but during the pendency of an appeal made by the convict, before the learned Appellate Court concerned, a compromise occurring amongst the complainant, and, the accused concerned. Though, the first Appellate Court, in verdict (supra) took into consideration, the settlement which occurred *inter se* accused and the complainant. However, the learned Appellate Court concerned, came to an opinion that since one amongst the offences, inasmuch as the one under Section 326 of the IPC was non-compoundable, rather within the ambit of Section 320 of Cr.P.C. Therefore, it came to a conclusion, that the compromise cannot be taken into consideration, for its making a valid order of composition.

7. In a criminal revision petition, becoming preferred by the aggrieved, before the High Court of Madhya Pradesh Gwalior Bench, a similar view was taken by the Hon'ble High Court concerned. Consequently, the aggrieved were led to motion the Hon'ble Apex Court, through their respectively instituting Criminal Appeal No. 1489 of 2012, and, Criminal Appeal No. 1488 of 2012 before the Hon'ble Apex Court. Both the criminal appeals (supra) became decided through a common verdict rendered thereons on 29.09.2021. The Hon'ble Apex Court has made in paragraphs 19 & 20 thereof, paras whereof become extracted hereinafter, certain germane to the instant petition hence expostulations of law. A deepest reading of the hereinafter extracted paragraphs, makes it evidently clear, that even when some of the offences are declared non-compoundable,

within the ambit of Section 320 Cr.P.C. Nonetheless, the plenitude, and, the amplitude of powers vested under Section 482 Cr.P.C., in the High Courts or the powers vested in Hon'ble Apex Court, under Article 142 Constitution of India, cannot yet become fitted, as, powers (supra), can yet be exercised beyond the ambit, and, frontiers of Section 320 Cr.P.C. Conspicuously, when an *ad idem* settlement occurs, and, when the judicially mandated exceptions to the exercise of powers (supra) are not surfacing. Therefore, the Hon'ble Apex Court concluded, that even if one of the offences in respect whereof, a verdict of conviction is handed, upon the accused-convicts, relates to non-compoundable offence, hence within the domain of Section 320 of Cr.P.C. However, and, reiteratedly the width of the plenary jurisdiction, vested in the High Courts under Section 482 Cr.P.C., can still be invoked, if the accused and the complainant enter, into a valid *ad idem* settlement, wherethrough they make an endeavour, to quash the criminal proceedings, which are yet pending before any Criminal Court of competent jurisdiction.

“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.

20. Having appraised the afore stated parameters and weighing

upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any ill will and have no vengeance against each other; and

Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age. ”

8. However, the relevant parameters, for the High Courts, hence proceeding to invoke the jurisdiction vested in them under Section 482 Cr.P.C., even when some of the offences, in respect whereof a verdict of conviction is handed by the Magisterial Court concerned, are non-compoundable, hence are enshrined in paragraph 20.

9. Bearing in mind the hereinabove extracted paragraphs, and also bearing in mind the report, as made to this Court, by the learned Court concerned, inasmuch as it revealing that the accused and the respondent No.2 hence entering into a valid *ad idem* compromise, and also it being a sequel of no pressure or coercion, being exercised upon each other. Therefore, this Court deems it fit, to, after bearing all in mind the relevant parameters, enshrined in the relevant paragraphs carried in verdict (*supra*), to accept the settlement arrived at *inter se* the accused, and the complainant, *de-hors* the fact that may be some of the offences, are non-compoundable. Conspicuously also when the compromise would bring amity amongst all concerned, and, also when the criminal transaction is purely private or personal only amongst the concerned.

10. Therefore, in view of the valid compromise, occurring *inter se* all concerned, this Court, in view of the judgment pronounced in **Ram Gopal's** case (*supra*), proceeds to set aside the proceedings in appeal, as are pending, against the verdict of conviction, recorded vis-a-vis the accused, by the learned Magistrate concerned.

11. Consequently, the present petition is allowed, and, the FIR (*supra*), and, also all subsequent proceedings arising therefrom, are quashed, qua the petitioners. The judgment, and, order of conviction, and, sentence are also set aside.

(SURESHWAR THAKUR)
JUDGE

July 05, 2022
Ithlesh

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