

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

271

CRM-M-38188-2019 (O&M)

Reserved on: 13/07/2022

Pronounced on: 22/07/2022

ANIL

....Petitioner(s)

Versus

STATE OF HARYANA AND ANOTHER

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Argued by : Mr. Amit Choudhary, Advocate
for the petitioner.

Ms. Aditi Girdhar, AAG Haryana.

Mr. C.S. Rana, Advocate for
Mr. Arun Singh, Advocate
for respondent No.2/complainant.

VINOD S. BHARDWAJ. J.

By means of the instant petition, the jurisdiction of this Court under Section 482 of the Code of Criminal Procedure (hereinafter referred to as 'CrPC') has been invoked for seeking quashing of FIR No.115 dated 25.03.2015 under Sections 323, 452, 506 and 34 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC') registered at Police Station Bhuna, District Fatehabad and setting aside of judgment of conviction dated 30.01.2018 and order of sentence dated 01.02.2018 passed by the Judicial Magistrate First Class, Fatehabad all other consequential proceedings arising therefrom on the basis of compromise dated 21.08.2019 (Annexure P-3) entered between the parties.

2 The parties were directed to appear before the learned trial Court/Illaq Magistrate vide order dated 18.11.2019 of this Court, to get their statements recorded regarding the compromise arrived at between the parties and a report in this regard was called for.

3. Pursuant to the said order, report has been received from the Chief Judicial Magistrate, Fatehabad vide Memo No.116 dated 24.02.2020. The relevant extract of the report is reproduced as under:-

i. It is further respectfully submitted that from the above statements of the parties i.e. accused-petitioner Anil and complainant Mahender Singh, the compromise arrived at between accused and complainant appears to be genuine, valid and it also appears that the statements of the parties are bona-fide and are not the result of any pressure or coercion in any manner. Further as per statement of Investigating Officer HC Kuldeep Singh, No. 36, Special Staff, Fatehabad, there are four accused persons in this case and they are on bail and are appearing in the learned Trial Court and no other case between complainant and accused Anil is pending.

4. Learned State counsel does not dispute the factum of the compromise amongst the parties and does not have any serious objection to the resolution of the dispute amongst the parties.

5. Mr. C.S. Rana, Advocate appears on behalf of respondent No.2 and reiterates the settlement and his concurrence to the FIR and all the other consequential proceedings being quashed.

6. While examining the scope of power under Section 482 CrPC vested in the High Court, the Full Bench of this Court in the matter of “**Kulwinder Singh and others versus State of Punjab and another**” reported as **(Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052** has observed as under:

'(28) To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the

process of any Court" or "to secure the ends of justice".

(29) In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and Ors., Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:

"The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."

(30) The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice.

(31) No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

(32) The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is "finest hour of justice". Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.

(33) The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. which can affect

the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.

(34) The power under Section 482 of the Cr.P.C. is to be exercised Ex-Debitia Justitia to prevent an abuse of process of Court. There can neither be an exhaustive list nor the defined para-meters to enable a High Court to invoke or exercise its inherent powers. It will always depend upon the facts and circumstances of each case. The power under Section 482 of the Cr.P.C. has no limits. However, the High Court will exercise it sparingly and with utmost care and caution. The exercise of power has to be with circumspection and restraint. The Court is a vital and an extra-ordinary effective instrument to maintain and control social order. The Courts play role of paramount importance in achieving peace, harmony and ever-lasting congeniality in society. Resolution of a dispute by way of a compromise between two warring groups, therefore, should attract the immediate and prompt attention of a Court which should endeavour to give full effect to the same unless such compromise is abhorrent to lawful composition of the society or would promote savagery.

7. The legal principles as laid down for quashing of the judgment were also approved by the Hon'ble Supreme Court in the matter of '**Gian Singh Versus State of Punjab and another,(2012) 10 SCC 303'**. Furthermore, the broad principles for exercising the powers under Section 482 were summarized by the Hon'ble Supreme Court in the matter of '**Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur and others versus State of Gujarat and another"** (2017) **9 SCC 641'**.

8. The petitioner stands convicted vide judgment dated 30.01.2018 passed Judicial Magistrate First Class, Fatehabad and has been sentenced vide order dated 01.02.2018 as under:-

Under Section 323 IPC	RI for a period of six months and fine of Rs.500/-.
Under Section 452 IPC	RI for a period of three years and fine of Rs.1,000/-
Under Section 506 IPC	RI for a period of six months and fine of Rs.500/-

9. The Hon'ble Supreme Court has held in the matter of '**Ramgopal And Another Vs State of Madhya Pradesh, 2021 SCC Online SC 834**', that the matters which can be categorized as personal in nature or in the matter in which the nature of injuries do not exhibit mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest, the Court can quash the FIR in view of the settlement arrived at amongst the parties even at an appellate stage. The observation of the Hon'ble Supreme Court is extracted as under:-

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.

20. Having appraised the afore-stated para-meters 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.

10. A perusal of the aforesaid judgment would establish that the extraordinary power enjoined upon a High Court under Section 482 CrPC can be invoked beyond the contours of Section 320 CrPC. It further establishes that criminal proceedings involving non-heinous offences can be annulled irrespective of the fact that the trial has already been concluded and the compromise is struck post conviction and during pendency of consequential proceedings. The jurisdiction under Section 482 CrPC has to be exercised with rectitude considering the circumstances of the case with an object to secure ends of justice. In the matter of **Bhagel Singh Vs. State Punjab 2014 (3) RCR (Criminal) 578**, where an accused had been convicted for offence under Section 326 IPC and was sentenced to undergo rigorous imprisonment for 2 years, the parties entered into compromise during pendency of the appeal, this Court, while placing reliance upon the precedent judgments of **Lal Chand Vs. State of Haryana. 2009 (5) RCR (Criminal) 838** and **Chhota Singh Vs. State of Punjab 1997(2) RCR (Criminal) 392** allowed the compounding of offence in respect of Section 326 IPC at the appellate stage with the observation that the same would be a starting point in maintaining peace amongst the parties. Furthermore, in a judgment dated 09.03.2017, passed in **CRR No.390 of 2017** titled as **Kuldeep Singh Vs. Vijay Kumar and another**, this Court 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 CrPC.,1973 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 an 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 principles 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 the 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.'

11. It is important to go through certain precedent judgments of the Hon'ble Supreme Court regarding quashing of FIR where there is partial compromise between the parties. The Hon'ble Supreme Court in the matter of **Jayrajsinh Digvijaysinh Rana Vs. State of Gujarat and another**, reported as 2012 (12) SCC 401, held 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. Furthermore, 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**, 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.

12. 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... xxx—xxx—xxx 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.

xxx--xxx—xxx

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.

*1. 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.

18. xxx xxx

19. xxx xxx

20. xxx xxx

21. *In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-inlaw 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.*

xxx—xxx—xxx

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.”

13. The aforesaid principle has further been followed by a co-ordinate Bench of this Court in the matter of **Ankush Tiwari And Others Vs. State of Punjab and Another reported as 2022(1) RCR (Criminal) 379.**

14. End of a dispute, as against adjudication in a case, is the finest hour of justice. Promotion of peaceful co-existence amongst the litigating parties is amongst the pursuits of a Court of law along with its primary role of adjudication of the same. Procedural technicalities would not stand in the way of Court to scuttle what is otherwise an amicable resolution of a conflict and interpretation should ordinarily lean in favour of facilitating settlement of the conflict.

15. Thus, it is clear from a perusal of the afore-stated precedent judgments that once the power to quash the proceedings in view of compromise has been held to be vested in the Court in a pending trial, such power would by necessary implication be also available with the High Court in a pending appeal.

16. The following relevant factors emerge from perusal of the case as well as the subsequent developments supplementing a case for invocation of the powers under Section 482 CrPC:-

- i. The dispute is arising from a scuffle between the parties resulting in injuries caused to the complainant. The injuries are simple in nature;
- ii. The petitioner was convicted vide judgment dated 30.01.2018 and order of sentence dated 01.02.2018 by the Judicial Magistrate First Class, Fatehabad and the appeal is pending before the Sessions Court;
- iii. The petitioner is in his twenties and continuation of criminal proceedings will cause severe repercussions to the petitioner in discharge of their social obligations as well as in their work place;

- iv. The parties are residents of the same locality and continuation of the proceedings is likely to spoil the peaceful atmosphere of the locality;
- v. The offence in question cannot be said to be heinous or as an offence that would be shocking to the conscience of the society or public at large. It can also not be termed as one shocking to the conscience of the Court;
- vi. Continuation of the proceedings and forcing the parties to undergo rigours of criminal proceedings is not likely to sub-serve any large public interest;
- vii. The complainant is not likely to support the case of the prosecution. Continuation of the proceedings is likely to be a waste of judicial time. The proceedings are likely to end in futility for want of parties to support the case of the prosecution;
- viii. No larger public purpose would be served by continuation of the proceedings;
- ix. Petitioner does not suffer any criminal antecedents and has not indulged in any such or similar case during the pendency of the case or after registration of the FIR.
- x. The object of law is well served when the parties resolve their differences and choose to peacefully co-exist and live in harmony.

17. In view of the report of the Chief Judicial Magistrate, Fatehabad and the principles laid down by the Apex Court in **Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303**, as well as **Ramgopal And Another Vs State of Madhya Pradesh 2021 SCC Online SC 834** and also by the Full Bench of this Court in **Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052**, the instant petition is allowed. The aforesaid FIR No.115 dated 25.03.2015 under Sections 323, 452, 506 and 34 of the Indian Penal Code,

1860 registered at Police Station Bhuna, District Fatehabad and all other consequential proceedings arising therefrom, **are hereby quashed** qua the petitioner and the judgment of conviction dated 30.01.2018 and order of sentence dated 01.02.2018 passed by the Judicial Magistrate First Class, Fatehabad is hereby set aside, in view of compromise dated 21.08.2019 (Annexure P-3). However, the same would be subject to payment of costs of Rs.10,000/- to be deposited by the petitioner with the **High Court Lawyers Welfare Fund Chandigarh** within one month from receipt of certified copy of this order.

Petition is allowed.

(VINOD S. BHARDWAJ)
JUDGE

July 22, 2022

S.Sharma(syr)

<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>