

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-49998-2021
Reserved on: 20.12.2021
Pronounced on: 02.02.2022

Sukhwinder Kaur
...Petitioner
Versus
State of Punjab & another
...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Atul Jain, Advocate
for the petitioner(s).

Mr. Sidakmeet Singh Sandhu, AAG, Punjab.

Dr. Reena Kansal, Advocate
for respondent no.2.

ANOOP CHITKARA, J.

Complaint No.	Dated	Court	Sections
76T	22.01.2010	Judicial Magistrate Ist Class, Patiala	406, 420, 467, 468, 471, 506 and 120-B IPC

Criminal Case no. before trial Court:	COMI No.51831 of 2013
Criminal Appeal no. before Sessions Court:	CRA-1097/2018

Seeking quashing of judgment of conviction dated 16.11.2018 passed by the trial Court, in which the appeal filed by the convicts is pending before the Sessions Court, the convicts, who have now entered into an out of Court compromise dated 12.10.2021 (Annexure P-3), have come up before this Court under Section 482 CrPC for quashing of the complaint, captioned above and charges levelled therein and consequential proceedings arising therefrom.

2. The petitioner has annexed a copy of impugned judgment dated 16.11.2018 as Annexure P-2. As per the contents of the said judgment, complainant Anant Jot Singh, respondent no.2 herein, had filed a complaint under Sections 406, 420, 467, 468, 471, 506 and 120-B IPC, Police Station Tripuri, Patiala against accused nos.1 to 9 namely Vikas Bhardwaj, Rattandeep Kaur, Amandeep Kaur, Ajit Inder Singh, Sukhwinder Kaur, Mohan Bhardwaj, Sohan Lal, Babu Singh, Shavindeer Singh through his Special Power of Attorney holder Tajinder Singh Banga. The complainant owned a plot of land measuring 8 marlas, which he had purchased from Jaswant Singh vide sale deed dated 04.05.1990. Jaswant Singh had purchased the said plot from Ajit Inder Singh, accused no.4. The complainant was entered as owner in possession in the revenue records, as reflected in *jamabandis* for the year 1986-87 upto 2006-07 and he was also in actual and physical possession over the land. The complainant alleged that Vikas Bhardwaj, accused no.1, in connivance with land grabbers Rattandeep Kaur, Amandeep Kaur, Ajit Inder Singh and Mohan Bhardwaj i.e. accused Nos.2 to 4 and 6 respectively, took forcible possession of the land. Despite repeated requests to return the possession, they refused to do so. When his repeated requests failed to yield any result, the complainant filed a civil suit for possession in the Court of Civil Judge (Senior Division), Patiala, which at the time of filing the complaint was stated to be pending. The complainant further alleged that accused no.1 Vikas Bhardwaj created/fabricated all sale deeds in connivance with other accused. After that, he took loan over the same from State Bank of Patiala and stopped paying the instalments. He claimed that now, the Bank will auction the plot to recover the amount. Further details are not relevant and it is suffice to say that lot of litigation and communications took place between the complainant and the accused.

3. The allegations against the present petitioner Sukhwinder Kaur were that she connived with other accused i.e. Rattandeep Kaur, Accused No.2 and Amandeep Kaur, Accused No.3 in order to create false sale deeds. The complainant further alleged that Rattandeep Kaur and Amandeep Kaur are real sisters, whereas Vikas Bhardwaj, accused no.1, is very close friend of real brother of Sukhwinder Kaur and hence, they were well known to each other and thereby, they managed to create false sale deeds. Based on such complaint, the Judicial Magistrate Ist Class recorded preliminary evidence and summoned the accused to face trial for offences punishable under Sections 406, 420, 467, 468, 471, 506

and 120-B IPC.

4. After considering the pre-charge evidence, learned Magistrate found a *prima facie* case against the accused and framed charges against them and vide above captioned judgment, found Rattandeep Kaur accused No.2, Amandeep Kaur accused No.3, Ajit Inder Singh accused No.4 (since deceased) and Sukhwinder Kaur accused No.5 guilty of the offence under Sections 420, 467, 468, 471 and 120-B IPC. All the accused were sentenced to undergo imprisonment as under:-

<i>Name of convicts</i>	<i>Offence u/s</i>	<i>Sentence awarded</i>
1. Sukhwinder Kaur 2. Amandeep Kaur 3. Rattandeep Kaur	420 IPC	<i>Undergo rigorous imprisonment for a period of 2 years each and fine of Rs.500/- each and simple imprisonment for 30 days in default of payment of fine each.</i>
	467 IPC	<i>Undergo rigorous imprisonment for a period of 2 years each and fine of Rs.500/- each and simple imprisonment for 30 days in default of payment of fine each.</i>
	468 IPC	<i>Undergo rigorous imprisonment for a period of 2 years each and fine of Rs.500/- each and simple imprisonment for 30 days in default of payment of fine each.</i>
	471 IPC	<i>Undergo rigorous imprisonment for a period of 2 years each and fine of Rs.500/- each and simple imprisonment for 30 days in default of payment of fine each.</i>
	120-B IPC	<i>Undergo rigorous imprisonment for a period of 2 years each and fine of Rs.500/- each and simple imprisonment for 30 days in default of payment of fine each.</i>

5. All the sentences were ordered to run concurrently.

6. Challenging the said judgment, convict Sukhwinder Kaur filed a criminal appeal i.e. CRA-1097-2018 in the Court of Sessions at Patiala, which as per the petition is pending. Accused Nos.2 and 3 Rattandeep Kaur and Amandeep Kaur also filed a separate joint criminal appeal i.e. CRA-1087-2018, which is also stated to be pending in the Court of Additional Sessions Judge, Patiala.

7. During the pendency of the appeal, the matter has been compromised between Sukhwinder Kaur and the complainant-respondent no.2. They also entered into an out of Court compromise deed dated 12.10.2021 (Annexure P-3). It will be relevant to extract paragraph Nos.2 and 3 of the said compromise deed, which reads as follows:-

“2. That the party No.1 filed Appeal against judgment dated 16.11.2018 before the Court of Sessions Judge, Patiala, the same is pending in the Court of Ms. Amandeep Kaur, Additional Sessions Judge, Patiala, and is fixed for 18.10.2021. With the intervention of the respectable the matter has been compromised and according to the compromise, party No.1 had paid Rs.six lakhs to party No.2 qua the expenses and damages, out of same Rs.3 lakhs has been paid by party No.1 to party No.2 through RTGS No.PUNBR52021101115424202 in his bank account, and remaining Rs.3 lakhs has been paid in cash. Now, nothing is pending against party no.1 and all the claims of the party No.2 has been satisfied.

3. That the party No.2 has no objection if in the appeal, Sukhwinder Kaur is acquitted by the Hon’ble Court.”

8. Vide order dated 30.11.2021, this Court had directed the parties to appear before the trial Court for getting their statements recorded *qua* the compromise arrived at between the parties. As per the report of the Judicial Magistrate Ist Class, Patiala, the parties did appear before him and he recorded the statement of Tejinder Singh Banga, General Power of Attorney of complainant Anant Jot Singh, on oath, which reads as follows:-

“Stated that Sukhwinder Kaur accused has compromised the instant criminal case with the complainant. The matter has been amicably settled between us. The instant compromise has been effected between us without any undue influence, coercion or pressure, but the same is outcome of our freewill and volition. As per compromise, none of us will file any civil suit or criminal complaint against each other regarding the matter in controversy after the present settlement. The complaint in question and all proceedings emanating therefrom may be ordered to be quashed as per compromise. I have no objection if the complaint is quashed and order of sentence qua the petitioner Sukhwinder Kaur is set aside as per compromise. The deed of compromise is Ex.PA. I have brought my original Aadhar Card and copy of the same is Ex.PC. The other co accused Rattandeep Kaur and Amandeep Kaur daughters of late S. Harjinder Singh r/o Patiala have no yet compromised and their appeal is separately pending in the Court of Ms. Amandeep Kaur Ld. Addl. Sessions Judge, Patiala. The complaint was withdrawn against other co-accused Vikas Bhardwaj during the pendency of the complaint itself. Accused Ajit Inder Singh had died during the pendency of the complaint. There is no other accused in the complaint nor any accused has been declared

proclaimed person or proclaimed offender.”

9. The accused also made similar statement on oath. The compromise dated 12.10.2021, in vernacular, is also annexed with the report.

ANALYSIS & REASONING:

10. The following aspects would be relevant to conclude this petition: -
- a) The accused and the private respondent(s) have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court;
 - b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;
 - c) The victim has willingly consented to the nullification of criminal proceedings;
 - d) There is no objection from the private respondents in case consequent proceedings are quashed;
 - e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;
 - f) The rejection of compromise may also lead to ill will;
 - g) There is nothing on the record to prima facie consider the accused as an unscrupulous, habitual, or professional offender;
 - h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family and society;
 - i) The ends of justice would justify the exercise of the inherent power by quashing the conviction and sentence and all previous proceedings.

JUDICIAL PRECEDENTS ON QUASHING OF CONVICTION BASED ON COMPROMISE:

11. In **Ram Prasad and Another v. State of Uttar Pradesh**, Cr.A Nos. 308-309 of 1980, decided on April 21, 1980, Hon'ble Supreme Court converted the convicted from 307 IPC to 324 IPC and after that based on compromise, accepted the compounding of offence under section 324 IPC and acquitted the appellants. In **Ramji Lal v. State of Haryana**, (1983) 1 SCC 368, Hon'ble supreme

Court, in a matter arising against the conviction under section 325 IPC, holds,

“[5]. All the offences for which the appellants are convicted are compoundable and the composition can be entered into with the permission of the court. Looking to the chastened attitude of the accused and the commendable attitude of the injured complainant, in order to restore harmony in the society, we accept the composition. We grant permission to enter into the composition and accept the same. We accordingly allow the appeal and set aside the conviction and sentence imposed on both the appellants. If they are on bail, their bail-bonds will be cancelled. If they are in jail, they will be released from the jail forthwith.”

12. In **Mohd. Rafi v. State of U.P.**, 1998(2) R.C.R.(Criminal) 455, Hon’ble Supreme Court decided as follows,

“[1]. The appellant was convicted under Sections 323 and 325 Indian Penal Code He had caused grievous hurt to Ahmed Hussain - respondent No. 2. His conviction was confirmed by the first appellate court and the Revision Petition filed by him was dismissed by the High Court.

[2]. Learned counsel for the appellant submits that now there is a compromise between the appellant and respondent No. 2 and that compromise has been brought about by the persons residing in the Mohalla and near relatives. He submits that in the interest of maintaining good relations between the parties, it is desirable that this Court grants permission to compound the said offences.

[3]. We have gone through the affidavits filed in this behalf by ShriPrem Singh, the neighbour of the complainant, Shyam Singh Gahlot, another neighbour of the complainant and Jamil Ahmed - brother of the complainant. All of them have stated in clear terms that the parties have willingly and voluntarily settled the matter.

[4]. In order to see that good relations are maintained between the parties, we grant permission to them to compound the said offences. As a result of our granting the permission, the appellant stands acquitted and is directed to be released from jail immediately, if his presence in jail is not required in connection with some other case.”

13. In **Parameswari v. Vennila**, (2000) 10 SCC 348, Hon’ble Supreme

Court holds,

“[2]. The appellants have been convicted for the offence punishable under Section 494 read with Section 109 Indian Penal Code. They have now arrived at a settlement with complainant Vennila, wife of the appellant Sivaprakasam. Compromise was made in the presence of panchayatdars of their village Mannachanallur. The compromise agreement duly signed by the parties and panchayatdars is placed on record of this Court. The appellants and complainant Vennila have now filed a joint application for permission to compound the offence proved against the appellants. The wife has also filed her consent independently and is also represented by an advocate. The compromise on the face of it appears to be reasonable and in the interest of the wife. The consent given by the wife also appears to be free and genuine. She is an educated woman. The offence in this case is compoundable with the consent of the wife and permission of the Court. In our opinion, this is a fit case in which permission deserves to be granted. Accordingly, we grant the application for permission to compound the offence with the result that the appellants stand acquitted of the offence for which they have been held guilty.”

14. In **M.D. Balal Mian v. State of Bihar**, 2001 AIR (SCW) 5190, Hon’ble Supreme Court decided as follows,

“[2]. Three persons were convicted among whom Mohammed NehalMian was convicted under Section 376 Indian Penal Code and the other two were convicted only under Sections 325 and 323 of the Indian Penal Code. As the High Court confirmed the conviction and sentence the three persons approached this Court for special leave. We found no scope for granting special leave in respect of the first petitioner Mohammed NehalMian and hence we dismissed the special leave petition as against him as per the order dated 26-9-2000.

[3]. As the present appellants, Mr.BalalMian and Mohammed BasheerMian, were convicted only under offences which are compoundable, it is now submitted on behalf of the victim respondent no. 2 that the matter has been compounded between the appellants and herself. We accept the aforesaid submission made by the counsel on behalf of respondent No. 2. Both sides have sworn to affidavit for the said purpose. We accord permission for compounding the offences.

[4]. We, therefore, acquit the appellants under Section 320 (8) of the Criminal Procedure Code.”

15. In **Vuyyuru Ramachandra Rao v. State of Andhra Pradesh**, 2001 AIR (SCW) 2396, Hon’ble Supreme Court holds,

“[3]. Appellant has been convicted under Section 354 of the Indian Penal Code. Sentence passed on him by the trial Court was subsequently reduced by the Sessions Court to imprisonment for 2 years.

[4]. PW-1 TekuPudi Rani is the lady aggrieved by the offence alleged against the appellant. She and the appellant have now come to terms and an application for compounding the offence has been filed by the complainant. Mrs. D. Bharati Reddy, learned counsel appearing for PW-1 confirms that the matter has been settled and her grievance has been redressed. We, therefore, allow the application for compounding. Resultantly, we acquit the appellant under Section 320 (8) of the Criminal Procedure Code.”

16. In **Khursheed and others v. State of U.P.**, Appeal (crl.) 1302 of 2007, decided on 28-9-2007, the appellants were convicted by Trial Court under sections 325, 323 read with 34 IPC. Their appeal against conviction was dismissed by the Sessions Court and revision petition was also dismissed by High Court. The convicts approached the Apex Court and Hon’ble Supreme Court held,

“[12]. An offence of causing grievous hurt punishable under Section 325 IPC is covered by sub- section (2) of Section 320 of the Code. It is thus clear that an offence punishable under Section 325 IPC is also compounded with the permission of the Court.

[13]. The parties have compounded the offences. As stated in the compromise deed, Gurfan Ahmad, complainant and his mother Kulsoom @ Bhoori (injured) did not want any action against the appellants (accused). The parties are neighbours, their houses are situated adjacent to each other and they have been living peacefully for last many years and there is no dispute among them. It is further stated that to continue sweet relationship and harmony, complainant side does not want to take any action against the accused. A prayer is, therefore, made to accept the compromise.

[14]. On the facts and in the circumstances of the case, and considering the Deed of Compromise and having heard learned counsel for the parties, in our opinion,

ends of justice would be met if we grant necessary permission for compounding an offence punishable under Section 325 read with Section 34 IPC as required by sub-section (2) of Section 320 of the Code. The offence punishable under Section 323 IPC has already been compounded by the parties.

[15]. Sub-section (8) of Section 320 states that the composition of offence under the section shall have an effect of acquittal of the accused with whom the offence has been compounded. The resultant effect of compounding of offences would be that the accused should be acquitted. In other words, once the offences have been compounded and the requisite permission is granted by the Court, the accused must be acquitted."

17. In **Manoj & Anr. v. State of Madhya Pradesh**, Cr. A No. 1530 of 2008, Hon'ble Supreme Court based on compromise, accepted the compounding of offence under section 324 IPC and acquitted the appellants.

18. In **Surat Singh v. State of Uttaranchal** (Now Uttarakhand), 2012(12) SCC 772, Hon'ble Supreme Court based on compromise, permitted the parties to compound their offences under section 354 and 506 IPC.

19. In **Dasan v. State of Kerala**, (2014) 12 SCC 666, Hon'ble Supreme Court converted the convicted from Section 326 IPC to Section 325 IPC and after that based on compromise, accepted the compounding of offence under section 325 IPC and acquitted the appellant.

20. In **Deva Ram v. State of Rajasthan**, (2014) 13 SCC 275, the appellant was convicted by Trial Court under section 420 IPC. His appeal against conviction was dismissed by the Sessions Court and revision petition was also dismissed by High Court. The convict approached the Apex Court and Hon'ble Supreme Court held,

"[5]. We are informed that out of two years imprisonment the appellant has undergone six months imprisonment. Offence under Section 420 of the IPC is compoundable with the permission of the court by the person who is cheated. Since the parties are related to each other and they have decided to accord a quietus to their disputes and live peacefully, we permit them to compound the offence. Hence, the offence under Section 420 of the IPC for which the appellant was convicted is compounded because it is compoundable with the permission of the court. The appellant is acquitted of the said charge."

21. In **Ravinder Kaur v. Anil Kumar**, (2015) 8 SCC 286, Hon'ble Supreme Court, in a matter arising out of conviction, permitted the compounding of offence under section 494 IPC.

22. In **Sube Singh v. State of Haryana**, 2013 (4) RCR (Cri) 102, a Division Bench of this Court holds,

"[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."

23. In **Shakuntala Sawhney v Kaushalya Sawhney**, (1979) 3 SCR 639, at P 642, Hon'ble Supreme Court observed that the finest hour of Justice arises propitiously when parties, who fell apart, bury the hatchet and weave a sense of fellowship or reunion.

24. This Court has inherent powers under Section 482 of the Code of Criminal Procedure to interfere in this kind of matter. In the entirety of the case and judicial precedents, I am of the considered opinion that the continuation of

these proceedings will not suffice any fruitful purpose whatsoever.

25. Given above, because of the compromise, and in the facts and circumstances peculiar to this case, judgment of conviction/order of sentence, charge sheet, complaint bearing No.76T/22.01.2010 and other consequential proceedings arising out of the said complaint are hereby quashed *qua* the petitioner only. However, the amount of fine is forfeited to the State, as cost incurred by it. If the same is still unpaid, the petitioner is directed to deposit the same before the trial Court. The bail bonds of the petitioner are accordingly discharged.

Petition allowed. All pending application(s), if any, stand disposed of.

(ANOOP CHITKARA)
JUDGE

February 02, 2022
AK

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