

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

273

CRM-M-711-2022
Decided on : 10.05.2022

Jai Vijay Singh @ Vijay Singh and others

. . . Petitioners

Versus

State of Punjab and others

. . . Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

PRESENT: Mr. Sidhant Vermani, Advocate
for the petitioners.

Mr. Sukhbeer Singh, AAG, Punjab.

Mr. Vibhu Walia, Advocate
for respondent Nos. 2 and 3.

VIKAS BAHL, J. (Oral)

This is a petition under Section 482 Cr.P.C. for quashing of FIR No. 10 dated 21.01.2011 under Sections 323, 324, 326 and 34 of the Indian Penal Code, 1860 registered at Police Station Gharinda Amritsar and also for setting aside the judgment dated 06.02.2018 (Annexure P-2) passed by the trial Court vide which the petitioners have been convicted under Sections 323, 324 and 34 of the Indian Penal Code, 1860 on the basis of the compromise.

On 10.01.2022, a Coordinate Bench of this Court was pleased to pass the following order:-

“Case heard by video conferencing.

By this petition, the petitioners seek quashing, on the basis of a compromise arrived at

between them and respondents no.2 and 3, of FIR no.10 dated 21.01.2011, registered at Police Station Gharinda, District Amritsar, for the alleged commission of offences punishable under the provisions of Sections 323,324,326 and 34 of the IPC, as also all other subsequent proceedings arising therefrom. A copy of the compromise deed has been annexed as Annexure P-3 with the petition.

Notice of motion.

Mr.M.S.Nagra, AAG Punjab, accepts notice at the asking of the court on behalf of respondent no.1, with Mr.Vibhu Walia, Advocate, appearing for respondents no.2 and 3. He will file a power of attorney duly executed by respondents no. 2 and 3 in his favour well before the next date of hearing.

A copy of the petition be emailed to both learned counsel by counsel for the petitioners today itself.

Adjourned to 10.05.2022.

In the meanwhile, the petitioners, as also respondents no.2 and 3, would appear before the learned appellate court upto 20.04 2022 to record their statements. The appellate court would satisfy itself with regard to the authenticity of the compromise and the fact that it has been arrived at without any kind of undue influence or pressure, and would thereafter send its report to this court, before the next date of hearing.

That court would also verify whether there is any other person involved in the occurrence, who is not a party to the present petition and whose consent for the compromise would be

required, if this court comes to the conclusion that the FIR sought to be quashed can be so quashed.

A gazetted officer is directed to file an affidavit stating therein whether there are any other criminal cases registered against the petitioners of like nature or otherwise also annexing therewith the MLR showing the kind of injuries received by the victims and the opinion of the doctor thereon.

It is to be noticed that the statements would be recorded before the learned appellate court as the petitioners already stand convicted of the offences that they were charged with, with the matter having been compromised between them thereafter, as informed by both the learned counsel.

*Sd/-
10.01.2022 (AMOL RATTAN SINGH)
JUDGE”*

In pursuance of the said order, a report has been submitted by the Additional District and Sessions Judge, Amritsar to the Registrar of this Court. The relevant portion of the said report is reproduced hereinbelow:-

“As per report under Section 173 Cr.PC presented in this case, four accused namely Mitter Singh, Jai Vijay Singh, Charles alias Jodh Singh and Davinder Singh alias Gurwinder Singh were challaned in this case. Vide judgment dated 6.2.2018 passed by the court of Ms.Amandeep Kaur, Ld.JMIC, Amritsar, accused appellants Jai Vijay Singh, Charles alias Jodh Singh and Davinder Singh alias Gurwinder Singh were

convicted and sentenced. Accused Mittar Singh died during the pendency of the trial and proceedings against him were abated vide order dated 25.4.2017. Convicts Jai Vijay Singh @Vijay Singh and Charles alias Jodh Singh filed Criminal Appeal No.100/2018, titled as "Jai Vijay Singh and another Versus State of Punjab" and convict Davinder Singh filed Criminal Appeal No. 98/2018 titled as "Davinder Singh Versus State of Punjab" for setting aside the judgment of conviction and for their acquittal. It is pertinent to mention here that State of Punjab has also filed Criminal Appeal No.322/2018 titled as "State of Punjab Versus Jai Vijay Singh @Vijay Singh, Charles @ Jodh Singh and Davinder Singh @ Gurvinder Singh" to set aside the judgment of acquittal dated 6.2.2018 passed by the learned trial court. There are two injured in this case namely complainant Sonu son of Mohinder Singh and injured Charanjit Singh and one eye witness Jaji Singh son of Bir Singh. They all have got recorded their statements in the court that matter has been compromised between the parties without any inducement, pressure, threat or coercion. In view of their statements the compromise effected between the parties seems to be genuine, voluntary and without any coercion or undue influence. So, the report alongwith photostat copies of statements of the petitioners-accused, eye witnesses and complainant recorded by this Court, is being sent herewith.

Submitted please."

A perusal of the above report would show that it has been

stated that initially there were four accused who had been challaned, out of which one accused had died during the course of the trial and the compromise has been effected between three petitioners and the complainant/victim and the same is genuine, bonafide and without any coercion or undue influence.

Brief facts of the case are that the FIR in question has been registered against four persons under Sections 323, 324, 326 and 34 IPC at Police Staion Gharinda Amritsar. One of the accused had died during the trial and vide judgment dated 06.02.2018, three petitioners were convicted as under:

<i>Sr. No</i>	<i>Name of the Convict(s)</i>	<i>Offence s under Section(s)</i>	<i>Sentence</i>	<i>Further S.I. In default to pay fine</i>
<i>1</i>	<i>Charles alias Jodh Singh, Jai Vijay Singh alias Vijay Singh and Davinder Singh alias Gurvinder Singh</i>	<i>324 of IPC</i>	<i>Rigorous imprisonment for a period of one year plus fine of Rs.2000/- each</i>	<i>15 days</i>
<i>2</i>	<i>Charles alias Jodh Singh, Jai Vijay Singh alias Vijay Singh and Davinder Singh alias Gurvinder Singh</i>	<i>323 of IPC</i>	<i>Rigorous imprisonment for six months</i>	

28. All sentences hereby awarded shall however run consecutively and the period already spend in custody by the accused during trial of this case shall be set forth in com, putting the sentence.”

The above petitioners had filed an appeal before the Additional Sessions Judge, Amritsar and even the State of Punjab had filed an

appeal against the order to the extent the petitioners had been acquitted under Section 326 IPC. As noticed above, during the pendency of the appeal, a compromise has been effected, which as per the report of the Additional Sessions Judge, Amritsar, is voluntary, without any coercion or undue influence.

Learned counsel for the petitioners has submitted that the compromise is genuine and bonafide and has referred to the judgment of a Co-ordinate Bench of this Court in ***CRM-M-17272-2015 dated 28.01.2016 titled as "Ram Parkash and others Vs. State of Punjab and others"*** to contend that under similar circumstances, the petition under Section 482 Cr.P.C. was entertained and the FIR with all subsequent proceedings was quashed and even the judgment of conviction was set aside on the basis of compromise.

Learned counsel for the petitioners has also 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 and has prayed that the present petition be allowed.

Learned counsel for the State has opposed the present petition for quashing and submitted that in the present case, the petitioners have already been convicted.

Learned counsel for respondent nos.2 and 3 has admitted the fact that the matter has been compromised and stated that same is in

the best interest of all the persons and would help in bringing out peace and amity between the petitioners and respondent nos. 2 and 3 and their family and has thus, prayed that the present petition be allowed.

This Court has heard learned counsel for the parties.

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 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 postconviction, 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 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. Nonacceptance 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.”

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 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. Firstly, the occurrence which has been involved in the present petition can be categorized as 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 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 Judicial Magistrate Ist Class. Fourthly, the compromise is without any coercion or compulsion and has been entered into willingly and voluntarily as per the report of Additional District & Sessions Judge, Amritsar. Fifthly, the occurrence took place in the year 2011 and there is nothing to show that any untoward incident has taken place after the same. Sixthly, the petitioner as well as respondent Nos. 2 and 3 are all residents of Amritsar and thus, the quashing of the present proceedings would bring peace and harmony among the parties. Seventhly, 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 petitioners.

Thus, keeping in view abovesaid facts and circumstances, this petition is allowed and FIR No. 10 dated 21.01.2011 under Sections 323, 324, 326 and 34 of the Indian Penal Code,1860 registered at Police Staion Gharinda Amritsar as well as the consequential proceedings arising therefrom are quashed, qua the petitioners. The judgment and order of sentence dated 06.02.2018 passed the Judicial Magistrate 1st Class, Amritsar (Annexure P-2) are set aside.

May 10th, 2022
Mehak

(VIKAS BAHL)
JUDGE

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