

236

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

CRM-M-54330-2021

Date of Decision: 28.02.2022

Mahinder Kaur and others

..... Petitioners

Versus

State of Punjab and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. A.P.S. Deol, Senior Advocate, assisted by
Mr. Arshdeep Singh Brar, Advocate,
for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. C.S. Jattana, Advocate,
for respondent No.2.

HARSIMRAN SINGH SETHI J. (ORAL)

The present petition has been filed for quashing the Complaint No.25, dated 13.09.2010, registered under Sections 420, 467, 468, 471 and 120-B of the IPC as well as the judgment of conviction and order of sentence dated 03.02.2018, passed by the Court of learned Judicial Magistrate Ist Class, Rajpura, on the basis of compromise dated 25.11.2021 (Annexure P-3), during pendency of the appeal of the petitioners before the learned Appellate Court.

This Court while issuing notice of motion on 23.12.2021 had passed the following order:-

“Learned senior counsel for the petitioners submits that though the petitioners have already been convicted in the complaint case and the appeal filed challenging the said conviction is still pending but

during the pendency of the said proceedings before the Appellate Court, the parties have amicable settled their dispute and the allegations on the basis of which, the petitioners are convicted, are not relating to heinous crime, hence, the same can be compromised even at the appellate stage.

Notice of motion.

Mr. Sandeep Singh Deol, learned Deputy Advocate General, Punjab, who is present in the Court, accepts notice on behalf of respondent No. 1.

Mr. C.S. Jattana, Advocate, who is also present in the Court, accepts notice on behalf of respondent No.2. He admits the factum of the compromise dated 25.11.2021 (Annexure P-3) entered into between the parties and raises no objection, in case the complaint in question along with the conviction is quashed on the basis of said compromise.

Adjourned to 28.02.2022.

In the meantime, the parties are directed to appear before the trial Court/Illaq Magistrate for recording of their statement with regard to the compromise/settlement on 20.01.2022 by moving appropriate application or by presenting this order. The Trial Court/Illaq Magistrate is directed to submit the report on or before the next date of hearing containing the following information:

- 1. Number of persons arrayed as accused in the FIR,*
- 2. Whether any accused is a proclaimed offender,*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence,*
- 4. Whether the accused persons are involved in any other FIR or not, and*

5. The Trial Court is also directed to record the statement of the Investigating Officer so as to know how many victims/complainants are there in the FIR and all the victims/complainants as well as accused are party to the compromise in question.

The question of imposition of cost for wasting valuable time of police as well as the Court will be assessed at the time of final hearing of present petition, in case the FIR is to be quashed.”

A report has come from Judicial Magistrate Ist Class, Rajpura, addressed to the Registrar General of this Court dated 01.02.2022 along with the statements of the accused-petitioners as well as the complainant which have been recorded. As per the said report, the compromise between the parties is *bona fide* and is not a result of any pressure or coercion on any of the parties to the compromise and none of the accused has been declared as proclaimed offenders and no other criminal proceedings are pending against them.

Learned senior counsel for the petitioners submits that the parties have already entered into compromise so as to live peacefully, hence prayer of the petitioners as raised in this petition may kindly be accepted, and the petitioners are ready to pay cost for utilizing the valuable time of the Courts.

Learned counsel for respondent No.2/complainant admits the compromise as well as the statement made before the Judicial Magistrate Ist Class, Rajpura, and does not raise any objection, in case the complaint in question as well as the judgment of conviction and order of sentence are quashed on the basis of the compromise, dated 25.11.2021.

Learned State counsel has also not pointed out any objection in respect of the prayer of the parties for quashing the complaint as well as the judgment of conviction and order of sentence on the basis of the compromise, dated 25.11.2021.

Hon'ble Supreme Court of India in its judgment dated 29.09.2021, passed in Criminal Appeal No.1489 of 2012 titled as **“Ramgopal and another Vs. State of Madhya Pradesh”**, held as under:

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13. It appears to us that criminal proceedings involving nonheinous 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.](#)³ and [Laxmi Narayan \(Supra\)](#).

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19. We thus sumup 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 aforestated 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.

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Keeping in view the totality of the circumstances which have been mentioned herein before and that the parties have already entered into compromise to settle their dispute so as to live peacefully and none of the accused is a proclaimed offender and there are no other criminal cases against the accused-petitioners, this Court is inclined to accept the prayer of

the petitioners for quashing the complaint as well as the judgment of conviction and order of sentence on the basis of the compromise, dated 25.11.2021.

Thus, the Complaint No.25, dated 13.09.2010, registered under Sections 420, 467, 468, 471 and 120-B of the IPC as well as the judgment of conviction and order of sentence dated 03.02.2018, passed by the Court of learned Judicial Magistrate Ist Class, Rajpura, are quashed qua the petitioners on the basis of compromise entered into between the parties.

The appeal pending before the Appellate Court stands infructuous.

The above order, quashing of the complaint as well as the judgment of conviction and order of sentence will be subject to the payment of Rs.50,000/- as cost, to be deposited with Prabh Aasra u/o Universal Disabled Care Taker Social Welfare Society, (who are maintaining Orphans) in Bank A/c No.014894600000970, SCO 151-152, Sector 9-C, Chandigarh or A/c No.100035657241 of IndusInd Bank, Sector-54, Phase-II, Mohali Branch by the petitioners, as undertaken by learned senior counsel for the petitioners before this Court.

28.02.2022*Apurva***(HARSIMRAN SINGH SETHI)
JUDGE**

1. Whether speaking/reasoned : Yes
2. Whether reportable : No