

CRA-394-SB-2006 (O&M) &
CRR-1256-2006 (O&M)

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Date of Decision: April 11, 2023

1. CRA-394-SB-2006 (O&M)

Dalbir Singh @ Dulla and others

...Appellants

Versus

State of Haryana and others

...Respondents

2. CRR-1256-2006 (O&M)

Jeet Singh (since deceased) through LRs

...Petitioner(s)

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. Ashit Malik, Advocate,
for appellants in CRA-394-SB-2006 and
for respondent Nos. 2 to 7 in CRR-1256-2006.

Mr. Pawan Kumar Jhanda, AAG, Haryana,
for respondent No. 1 – State.

Mr. Kulwinder Bhargav, Advocate,
for Mr. R.K. Handa, Advocate,
for the petitioner(s) in CRR-1256-2006 and
for respondent Nos. 2(i) to 2(vi), 3 & 4
in CRA-394-SB-2006.

SANJAY VASHISTH, J.

1. By this judgment and order, I propose to dispose of Criminal
Appeal No. CRA-394-SB-2006 and Criminal Revision No. CRR-1256-2006.

2. Impugning the judgment of conviction dated 23.01.2006 and
order of sentence dated 24.01.2006, passed by learned Sessions Judge,

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Kaithal / Trial Court, in Sessions Case No. 10 of 2005 [Sessions Trial No. 33 of 2005, instituted on 18.10.2000], arising out of FIR No. 86, dated 21.06.2000, under Sections 148, 307, 427 & 149 IPC and Section 25 of the Arms Act, registered at Police Station Guhla, accused-convicts/appellants, namely – (1) Dalbir Singh @ Dulla, (2) Sarwan Singh, (3) Harpinder Singh, (4) Amrik Singh, (5) Balwinder Singh, and (6) Jagir Singh, preferred Criminal Appeal No. CRA-394-SB-2006.

3. While assailing the said judgment of conviction, passed by learned Trial Court, complainant – Jeet Singh, preferred Criminal Revision No. CRR-1256-2006, seeking conviction of the convicts/appellants under Section 307 IPC as well, and to enhance their substantive sentence from 2 years to 7 years.

4. For brevity, the facts have been culled out from CRA-394-SB-2006.

On the basis of statement of complainant – Jeet Singh, aforementioned case was registered, and total seven accused, namely (1) Dalbir Singh @ Dulla, (2) Sarwan Singh, (3) Harpinder Singh, (4) Amrik Singh, (5) Balwinder Singh, (6) Jagir Singh and (7) Sunder Singh, faced trial for the offences punishable under Sections 148, 307, 427 and 149 IPC, primarily with the allegation that they formed an unlawful assembly on 21.06.2000 and in furtherance of common object of said assembly attempted to commit murder of Jeet Singh (complainant), Gian Singh and Sukhdev

Singh (victim/injured persons), and further damaged the tractor of Piara Singh by throwing it in a deep pit.

5. As per version of the FIR, complainant had four brothers, namely, Niranjana Singh, Sarup Singh, Anoop Singh and Chanan Singh. Anoop Singh had already expired, while whereabouts of Chanan Singh were not known since the year 1981. Chanan Singh was owner of 16 acres of agricultural land, out of which four acres were being cultivated by the complainant, while the remaining 12 acres were being cultivated by Sarup Singh and his sons. Sarup Singh and his sons started proclaiming that they had a civil court decree in their favour regarding said four killas of land. Sarup Singh and his sons wanted to take forcible possession of the said land. Civil litigation was also pending between the parties regarding the same dispute and they had also been challaned under Section 107/151 Cr.P.C.

On 21.06.2000, complainant - Jeet Singh was present in his field alongwith Gian Singh, Sukhdev Singh and Sahab Singh. They were preparing the land for transplanting the paddy. At about 3.00 p.m., accused Sarwan Singh and Sunder Singh (both sons of Sarup Singh), besides their relatives Sardool Singh, Jagir Singh and Amrik Singh came there. Sarwan Singh and Sunder Singh were armed with guns while others were armed with *gandasis*. Sarwan Singh raised a lalkara that complainant and his relatives should be taught a lesson for ploughing the field in question and they should be done to death. Thereafter, Sarwan Singh and Sunder Singh

had fired from the guns which they were carrying. The gun shots struck the complainant – Jeet Singh, Gian Singh and Sukhdev Singh. Thereafter accused Harinder Singh and Balwinder Singh had also reached the spot armed with *gandasis*, they took possession of the tractor of complainant and pushed it into a deep pit. Thereafter, all the seven accused fled away towards the jungle area. The injured were removed to the hospital where the police recorded the statement of complainant – Jeet Singh at 07.15p.m., on the basis of which FIR was registered.

6. Upon completion of investigation and recovery of weapons etc., challan was filed against all the accused. All the accused were charged for the offence punishable under Sections 148, 427/149 IPC, whereas accused Sunder Singh and Sarwan Singh were also charged for the offence under Section 307 IPC and accused Dalbir Singh, Balwinder Singh, Harpinder Singh, Jagir Singh and Amrik Singh were charged for the offence under Section 307 read with Section 149 IPC. All the accused pleaded not guilty and claimed trial.

7. After conclusion of the trial, complete evidence was scanned by learned trial Court and came to the following conclusions:

- i. The evidence produced by the prosecution establishes beyond any shadow of doubt that on 21.06.2000 accused had come to the fields armed with guns and *gandasis* and they had caused fire arm injuries to the complainant party;

- ii. Offences of mischief as well as attempt to cause death have been established by the prosecution;
- iii. All the accused were members of an unlawful assembly and the gun shot had been fired in pursuance of the common object of that assembly and each of the accused would be vicariously liable for the said act;
- iv. Accused – Sunder Singh died during trial;
- v. Facts clearly bring out that there was no intention to cause death. Keeping in view the nature of injuries, the offence would be only under Section 324 IPC and the ingredients of Section 307 IPC are not made out;
- vi. Accused Harpinder and Balwinder arrived at the scene only after the first occurrence was over. They did not make any effort to cause any injury to the complainant party. These two accused cannot be held vicariously liable for the offence under Section 324 IPC. However, these two accused were held guilty and convicted for the offence punishable under Section 427/34 IPC;
- vii. For the first act, accused – (1) Dalbir Singh, (2) Sarwan Singh, (3) Amrik Singh and (4) Jagir Singh were held guilty and convicted for the offence punishable under Section 324 read with Section 149 IPC; and

- viii. All the accused had committed the offence of rioting. Thus, all of them were held guilty and convicted under Section 148 IPC.
8. Vide order of sentence dated 24.01.2006, convicts (appellants herein) were ordered to undergo following sentences:-

Name of convict/ appellant	Under Section	Sentence	Fine	In Default
All accused	148 IPC	1 year R.I. each	Rs.1000/- each	1 month R.I. each
Dalbir Singh, Sarwan Singh, Amrik Singh and Jagir Singh	324/149 IPC	2 years R.I. each	Rs. 5,000/- each	6 months R.I. each
Harpinder Singh and Balwinder Singh	427/34 IPC	1 year R.I. each	Rs. 5,000/- each	6 months R.I. each

It was further ordered by the Trial Court as under:-

“ However, all the sentences shall run concurrently. The period of detention undergone by the convicts during investigation and trial of the case shall be set off. In case of recovery of the entire amount of fine, an amount of Rs. 20,000/- shall be paid to complainant Jeet Singh for the expenses incurred by him on the repair of the damaged tractor. Another sum of Rs. 5,000/- shall be paid to Jeet Singh as compensation for the injuries suffered by him and a sum of Rs. 2500/- each shall be paid as compensation to injured Pws Gian Singh and Sukhdev Singh for the injuries suffered by them. Record be consigned after due compliance.”

9. Fine was deposited and on an application filed, vide separate

order dated 24.01.2006, learned trial Court suspended the sentence of imprisonment imposed upon the convicts for a period of two months, enabling them to file an appeal before this Court. Hence, Criminal Appeal No. CRA-394-SB-2006.

10. Appeal was admitted and sentence of imprisonment of the appellants was suspended during pendency of the appeal, by this Court, vide order dated 28.02.2006.

11. During pendency of CRA-394-SB-2006, appellant No. 4 – Amrik Singh, expired on 20.10.2015, which is evident from the Death Certificate (Annexure A-2), placed on record by way of Criminal Miscellaneous Application No. CRM-7461-2023 in CRA-394-SB-2006.

Since learned State counsel has not disputed the death of appellant No. 4 – Amrik Singh, therefore, Criminal Appeal No. CRA-394-SB-2006, qua him is liable to be abated. Ordered accordingly.

12. Similarly, complainant – Jeet Singh also expired during the pendency of these proceedings on 04.06.2020. Accordingly, two Criminal Miscellaneous Application Nos. CRM-28069-2022 in CRA-394-SB-2006 and CRM-28154-2022 in CRR-1256-2002, were filed by respective parties, seeking permission to implead legal representatives of complainant – Jeet Singh in criminal appeal as well as criminal revision, respectively. Said applications were allowed by this Court, vide order dated 17.02.2023.

13. Another Criminal Miscellaneous Application No. 7463-2023 in

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CRA-394-SB-2006, was moved by the appellants, for impleading Sukhdev Singh and Gian Singh as respondent Nos. 3 and 4, being victim/injured persons. Said application was also allowed by this Court, vide order dated 17.02.2023.

14. The appellants also filed Criminal Miscellaneous Application No. CRM-7464-2023, under Section 482 Cr.P.C. read with Section 320 Cr.P.C., for compounding of offences under Sections 148, 324/149 and 427/34 IPC, on the ground that with the intervention of relatives and friends of both sides, the matter has been compromised between them and they do not want to pursue the case and further complainant party as well as injured have no objection if FIR No. 86, dated 21.06.2000, under Sections 148, 307, 427 and 149 IPC, and Section 25 of the Arms Act, registered at Police Station Guhla, District Kaithal, along with subsequent proceedings including the judgment of conviction dated 23.1.2006 are quashed. The affected parties also executed a compromise dated 04.04.2022 (Annexure A-1).

On 17.02.2023, following order was passed by this Court in CRM-7464-2023 in CRA-S-394-2006:

“ Prayer in the present application under Section 482 Cr.P.C. read with Section 320 Cr. P.C. is for compounding of offences under Sections 324, 149, 148, 324/149 and 427/34 IPC.

Notice of the application.

Mr. Pawan Kumar Jhanda, AAG, Haryana, and Mr. Ajay Partap Singh, Advocate, accept notice on behalf of respective non-applicant(s)/respondent(s). They submit that

they have no objection if the prayer made in the application is allowed.

Therefore, affected parties are directed to appear before the learned Trial Court/Illaq Magistrate on or before 14.03.2023 or any other date convenient to the Court concerned, who shall record their respective statements with regard to the compromise and submit a detailed report in that regard along with copies of the statements to this Court on or before the adjourned date, containing the following information as well:-

- i. Total number of persons arrayed as accused in the case;*
- ii. Whether all the accused and complainant / victims are party to compromise;*
- iii. Whether any accused has been declared as a proclaimed offender or any such proceedings have been initiated or pending decision;*
- iv. Stage of the trial/proceedings; and*
- v. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

To come up on 11.04.2023, awaiting report.

Reply by the respondent-State, if any, be filed on or before the next date of hearing.”

15. In compliance of the said order respective parties, i.e. legal representatives of complainant – Jeet Singh, namely: Sahab Singh, Parkash Singh and Jarnail Singh (sons of Jeet Singh), Satinder Kaur, Narinder Kaur and Gurbinder Kaur (daughters of Jeet Singh); victim/injured – Sukhdev Singh and Gian Singh; and accused/appellants – Dalbir Singh, Sarwan Singh, Harpinder Singh, Balwinder Singh and Jagir Singh, did appear before

learned Sessions Judge, Kaithal, on 10.03.2023 and got recorded their respective statements.

16. Learned Sessions Judge, Kaithal, by recording his satisfaction, prepared a detailed report, in compliance of the order dated 17.02.2023, and forwarded the report vide Memo. No. 882, dated 15.03.2023. Relevant portion of the said report says as under:-

“6. From the above referred facts and circumstances; it is reported that: There were seven accused originally arrayed in this FIR/report under section 173 Cr.P.C. Out of them, two accused namely: Amrik Singh and Sunder Singh have since expired. Now, there are five surviving accused namely: Dalbir Singh, Sarwan Singh, Harpinder Singh, Balwinder Singh and Jagir Singh.

7. All above named accused AND Legal Representatives of complainant-Jeet Singh AND victims are party to compromise dated 4.4.2022 (filed in Hon’ble High Court in CRA No. 394-SB-2006).

8. Accused have never been declared “proclaimed offender”.

9. Vide judgment dated 23.1.2006, passed by Shri H.S. Bhangoo, the then learned Sessions Judge-Kaithal, accused were held guilty and stood convicted. Now, CRA No. 394-SB-2006 is pending before the Hon’ble High Court and is fixed for 11.4.2023. As per Hon’ble High Court’s direction in order dated 17.2.2023, passed in CRA No. 394-SB-2006, titled as “Dalbir Singh and others Vs. State of Haryana”, statements of parties, in relation to compromise, have been recorded.

10. From conjoint reading of joint statement of Legal Representatives of complainant-Jeet Singh namely: Sahab Singh, Parkash Singh and Jarnail Singh (sons of Jeet Singh), Satinder Kaur, Narinder Kaur and Gurvinder Kaur (daughters of Jeet Singh), joint statement of victims/injured Sukhdev Singh and Gian Singh AND joint statement of accused Dalbir Singh,

Sarwan Singh, Harpinder Singh, Balwinder Singh and Jagir Singh have been recorded on 10.3.2023, it is fairly visible that: now compromise has been effected amicably between affected parties viz. complainant (now represented by his LRs), victims and accused. They have, amicably set at rest, their respective grievances, ill-will and grudges. Compromise arrived at between affected parties appears to be outcome of their self wisdom, without their being any pressure upon them from any quarter. Hence, it is genuine, voluntary and without any coercion or undue influence.”

From a bare perusal of the said report it is evident that the parties appeared before learned Sessions Judge, Kaithal, and supported compromise dated 04.04.2022 (Annexure A-1). Learned Sessions Judge, Kaithal, also recorded his satisfaction that “.....*now compromise has been effected amicably between affected parties viz. complainant (now represented by his LRs), victims and accused. They have, amicably set at rest, their respective grievances, ill-will and grudges. Compromise arrived at between affected parties appears to be outcome of their self wisdom, without their being any pressure upon them from any quarter. Hence, it is genuine, voluntary and without any coercion or undue influence.”*

Legal Representatives of complainant – Jeet Singh, in their joint statement before learned Sessions Judge, Kaithal, stated as under:-

“ Stated that we have amicably settled/compromised all grievances with accused which are off-shoot of case FIR No. 86/2000 u/ss 148, 149, 307, 427 IPC and 25 of Arms Act, P.S” Guhla. Our father-Jeet Singh was complainant in that case, who has since expired. Written compromise dated 4.4.2022 has already been placed on record in CRA No. 394-SB-2006, pending before Hon’ble High Court. We are living peacefully and there is no ill-will/grudge against accused of this FIR. We endorse the authenticity of compromise dated 4.4.2022 (filed in

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Hon'ble High Court) and accept the same being genuine. This compromise has been effected with intervention of respectable persons of area and relatives and we all undertake and assure to abide by the same. We have no objection if appeal pending in Hon'ble High Court be disposed of on the basis of our compromise deed dated 4.4.2022. We are not under any pressure, coercion or influence from any quarter while making this joint statement today in court regarding compromising the matter with accused of above FIR. We are also ready to make similar statement in the Hon'ble High Court in appeal, pending there, if required. We are party to compromise dated 4.4.2022. There were seven accused originally arrayed in this FIR/report under section 173 Cr.P.C. Out of them, two accused namely: Amrik Singh and Sunder Singh have expired."

On similar lines, two victims/injured, namely, Sukhdev Singh and Gian Singh (respondent Nos. 3 and 4 in CRA-394-SB-2006) made their joint statement, which form part of the report dated 15.03.2023, received from learned Sessions Judge, Kaithal.

17. This is how, the matter has been taken up for its final conclusion.

CRR-1256-2006:

18. Criminal revision filed by complainant-Jeet Singh (since expired) is taken up first for disposal.

Mr. Kulwinder Bhargav, Advocate, appearing for Mr. R.K. Handa, Advocate, learned counsel for complainant/victim/injured person, states at the very outset that he has instructions to make a statement at the Bar, not to press this revision petition, in view of compromise dated 04.04.2022, entered into between the affected parties. Accordingly, he prays that revision petition may be disposed of as not pressed.

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Ordered accordingly.

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19. Learned counsel for the appellants has confined his submission for compounding the sentence for the reason that a compromise dated 04.04.2022 (Annexure A-1), has been arrived at between the appellants and complainant/victim/injured party. Learned counsel further submits that occurrence had taken place on 21.06.2000, i.e. about 23 years ago, over a land dispute between members of a family having same ancestors. Now, with the intervention of close relatives, friends and respectable persons of the area, affected parties have amicably resolved all the disputes and compromised the matter. They are now living peacefully and there is no ill-will/grudge against convicts/appellants.

20. Learned counsel for the appellants further argues that law is well settled in regard to compounding of offences/quashing of FIR even after conviction, during proceedings of the appeal against conviction pending in High Court/Sessions Court and even in cases involving non-compoundable offences. In this regard, he has placed reliance on the judgment(s) of:

- i) Hon'ble the Supreme Court rendered in the cases of Narinder Singh and others v. State of Punjab and another, (2014) 6 SCC 466; and Ramgopal and another v. The State of Madhya Pradesh, 2021 SCC Online SC 834;

- ii) a Full Bench judgment of this Court in the case of Kulwinder Singh v. State of Punjab and another, 2007 (3) RCR (Criminal) 1052;
- iii) a Division Bench judgment of this Court in the case of Sube Singh and another v. State of Haryana and another, 2013 (4) RCR (Criminal) 102; and
- iv) a recent judgment passed by this Court in the case of Lakhbir Singh v. State of Punjab and another (CRA-S-2065-SB-2007, decided on 14.02.2023 : Law Finder Doc ID #2138925).

21. Learned counsel appearing for complainant/victim/injured party has joined hands with the appellants and submits that he has instructions to state at the Bar that if FIR No. 86, dated 21.06.2000, registered at Police Station Guhla, and all the subsequent proceedings emanating therefrom are quashed in terms of compromise dated 04.04.2022 (Annexure A-1) and the appellants are acquitted/discharged by this Court, they will have no objection.

22. Learned State counsel after going through the statements and the report received from learned Court below, very fairly admits that the matter has been compromised. However, learned State counsel objects the prayer of the appellants for compounding of offence/quashing of FIR and consequential proceedings as also acquittal/discharge of the appellants on

the basis of compromise dated 04.04.2022 (Annexure A-1), entered into between the appellants and affected parties, by submitting that prosecution has been able to prove its case, which is why accused persons have been convicted by the Trial Court by passing a reasoned order in the present case. Thus, no concession can be extended to the convict persons by quashing of FIR or compounding of offences on the basis of compromise.

23. I have heard learned counsel for the parties and with their able assistance gone through the record.

24. Issue involved in the present case is that once matter has been considered after appreciation of evidence by the learned Trial Court and appeal against the same is pending before Appellate Court, whether proceedings can be quashed/compounded/finished on the basis of compromise amongst all the parties to *lis*.

25. The matter is no longer *res integra*. Hon'ble the Supreme Court in **Narinder Singh's case (supra)** has considered in detail the issue in hand as also inherent power of High Court under Section 482 Cr.P.C. to quash criminal proceedings involving non-compoundable offences in view of compromise/settlement arrived at between the parties. In the said case, FIR was registered under Sections 307, 324, 323 and 34 IPC. A petition under Section 482 Cr.P.C. was filed before this Court seeking quashing of FIR on the basis of compromise entered into between the petitioners who were the accused in the FIR and the complainant. This Court refused to exercise its

extraordinary discretion invoking the provisions of Section 482 Cr.P.C. on the ground that four injuries were suffered by the complainant and as per the opinion of the doctor, Injury 3 was serious in nature.

26. After detailed discussion, in paragraph No. 29 of the judgment in **Narinder Singh's case (supra)**, Hon'ble the Supreme Court laid down certain principles/guidelines for the High Court so as to give adequate treatment to the settlement between the parties while exercising power under Section 482 Cr.P.C., while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Para 29 and 29.1 of the said judgment, being relevant, are reproduced as under:-

“29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution.”

27. In relation to the cases involving the offence punishable under Section 307 IPC, in para No. 29.6 of the judgment, Hon'ble the Apex Court has held as under:-

29.6 Offences under Section 307 IPC would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of Section 307 IPC in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of Section 307 IPC is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under Section 307 IPC. For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. (emphasis added)

28. In the case in hand, initially FIR was lodged under Sections 148, 307, 427, 149 IPC and Section 25 of the Arms Act. As already noticed above, after analyzing the evidence, learned Trial Court came to the conclusion that ingredients constituting an offence under Section 307 IPC are completely missing in the present case, therefore, all the accused stand acquitted for the said offence.

The appellants were convicted and sentenced for the offences punishable under Sections 148, 324/149 and 427/34 IPC only and acquitted under other charges framed against them. Furthermore, no appeal has been

preferred by the State against the findings recorded by learned Trial Court qua Section 307 IPC. Criminal revision petition filed by complainant – Jeet Singh, already stands disposed of “**as not pressed**”, in view of compromise dated 04.04.2022 (Annexure A-1).

29. In **Narinder Singh’s case (supra)**, their Lordships’ of Hon’ble the Supreme Court also discussed the scope of Section 320 Cr.P.C. vis-a-vis powers of High Court in exercise of Section 482 Cr.P.C. and came to the conclusion that Section 320 Cr.P.C. deals with only “compoundable offences” within the statutory frame work and the extraordinary power is enjoyed upon a High Court under Section 482 Cr.P.C. In other words, powers under Section 482 Cr.P.C. are of larger scope than Section 320 Cr.P.C.

30. In the case of **Ramgopal and another (supra)**, Hon’ble the Supreme Court has dealt with a situation where appeal under Sections 294, 323 and 326 read with 34 of IPC and Section 3 of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes) Act, 1989, was pending and the concerned parties entered into compromise during pendency of such appeal. In para 13 of the judgment, Hon’ble the Supreme Court has made the following observations:

“13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly 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 extra-ordinary power under Section 482 Cr.P.C., 1973 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., 1973 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. v. State of Punjab & Ors., (2014) 6 SCC 466** and **Laxmi Narayan (Supra).**”*

31. From a bare perusal of the above, it is evident that broadly it was concluded by their Lordships’ that touchstone for exercising the extra-ordinary power under Section 482 Cr.P.C. would be to secure the ends of justice and that 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.

32. Thus, it can be safely concluded that where offences are non-heinous or where the offences are pre-dominantly of a private nature, they can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction.

33. It has further been held in **Ramgopal’s case (supra)** 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. 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 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.”

34. The Full Bench of this Court in the matter of **Kulwinder Singh (supra)** has made the following observations:

“(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 others, 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.”

35. After considering the aforementioned position of law as enumerated from the interpretation made by Hon’ble the Supreme Court, Full Bench of this Court and in totality of circumstances that compromise dated 04.04.2022 (Annexure A-1) between the parties has already been entered, nothing can be achieved by hearing the appeal on merits.

36. The report alongwith statements of the affected parties received from learned Court below would reveal that complainant/victim/injured party has genuinely effected compromise dated 04.04.2022 (Annexure A-1) with the appellants and they have no objection, if the appellants are acquitted/discharged.

37. At this juncture, it would be pertinent to notice that during the course of arguments, learned counsel for the appellants has also pointed out that though, Criminal Miscellaneous Application No. CRM-7464-2023 in CRA-394-SB-2006 has been filed under Section 482 read with Section 320

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Cr.P.C., with a prayer for compounding of the offence under Sections 148, 324/149 and 427/34 IPC only, in view of the compromise arrived at between the parties, yet as per judgment of Hon'ble the Supreme Court rendered in the case of Ramgopal and another (supra), powers of this Court under Section 482 Cr.P.C. are at a higher pedestal being extra ordinary in nature. Therefore, learned counsel for the appellants has prayed that FIR No. 86, dated 21.06.2000, under Sections 148, 307, 427 and 149 IPC and Section 25 of the Arms Act, registered at Police Station Guhla, District Kaithal, and all the consequential proceedings arising therefrom may be quashed to secure ends of justice.

38. Said contention of learned counsel for the appellants is strengthened with the observations made by their Lordships' of Hon'ble the Supreme Court in para No. 19 of the judgment in **Ramgopal's case (supra)** that, as already noticed and reproduced in Para No. 33 of this judgment.

39. In view of above discussion, **Criminal Miscellaneous Application No. CRM-7464-2023 in CRA-394-SB-2006 is allowed.** Consequently, FIR No. 86, dated 21.06.2000, under Sections 148, 307, 427 and 149 IPC and Section 25 of the Arms Act, registered at Police Station Guhla, District Kaithal, alongwith all consequential proceedings including judgment of conviction dated 23.01.2006 and order of sentence dated 24.01.2006, passed by learned Sessions Judge, Kaithal, are quashed, on the basis of compromise dated 04.04.2022 (Annexure A-1), entered into

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between the appellants and complainant/victim/injured party(s).

40. Since proceedings in the present case have been quashed on the basis of compromise dated 04.04.2022 (Annexure A-1), entered into between the private parties, order of sentence dated 24.01.2006, passed by learned Trial Court, qua payment of compensation is kept intact, without disturbing the same.

41. Criminal Appeal No. CRA-394-SB-2006 stands disposed of.

(SANJAY VASHISTH)
JUDGE

April 11, 2023
Pkapoor

Whether Speaking/Reasoned: YES/~~NO~~
Whether Reportable: YES/~~NO~~