

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

**CRA-S-2065-SB-2007 (O&M)
Date of Decision: February 14, 2023**

Lakhbir Singh

...Appellant

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

**Present: Mr. Paramapreet Singh Paul, Advocate,
for the appellant.**

**Mr. J.S. Arora, Deputy Advocate General, Punjab,
for respondent No. 1 – State.**

**Mr. Mayank Aggarwal, Advocate,
for Ms. Maloo Liberhan, Advocate,
for respondent No. 2.**

SANJAY VASHISTH, J.

1. By this judgment and order, I propose to dispose of Criminal Appeal No. CRA-S-2065-SB-2007 alongwith Criminal Miscellaneous Application Nos. CRM-25060-2022, CRM-144-2023 and CRM-1631-2023.

2. Feeling aggrieved against the judgment of conviction and order of sentence, dated 26.09.2007, passed by learned Additional Sessions Judge (Adhoc)-cum-Presiding Officer, Fast Track Court, Rupnagar, in Sessions Case No. 35, dated 03.10.2005, arising out of FIR No. 26, dated 14.06.2005, under Sections 307, 353, 186, 332, 427 IPC and Section 61(1)(a) of the Punjab Excise Act, 1914, registered at Police Station Nurpur Bedi, District

Rupnagar, appellant – Lakhbir Singh has preferred Criminal Appeal No. CRA-S-2065-SB-2007.

3. Aforementioned FIR was registered against appellant – Lakhbir Singh and co-accused Kamaljit Singh alias Lally with the allegations that on 14.06.2005, at about 4.30p.m., when a police party headed by SI/SHO Raminder Singh was patrolling at T-point of village Azampur, one Black colour Cielo Car, bearing Registration No. HR-26-C-5161, came from the side of Nurpur Bedi in a very high speed and two persons were sitting in the car. A signal was given to stop the car, but driver of the car did not stop the car and tried to run over P.H.G. Avtar Singh (respondent No. 2), with an intention to kill him, but Avtar Singh saved himself by changing his position. However, car struck him and caused injuries on his right thigh & right hand and his rifle was also damaged. Occupants of the car left the car in the bushes on the bank of the river and ran away. On search of the car, 432 bottles of Kingpal Premier Whisky made in Himachal Pradesh, were recovered.

4. After registration of case and investigation, accused were arrested on 17.06.2005. Since the offence under Section 307 IPC was triable by the Court of Sessions, case was committed to the Court of learned Additional Sessions Judge (Adhoc)-cum-Presiding Officer, Fast Track Court, Rupnagar, vide order dated 25.08.2005, passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib. Both the accused, i.e. Lakhbir Singh (appellant) and Kamaljit Singh alias Lally faced trial for the charges under Sections 307, 427, 186, 332, 333 and 353 IPC, Sections 181 and 192 of the

Motor Vehicles Act and Section 61 of the Punjab Excise Act. They pleaded not guilty and claimed trial.

5. After conclusion of the trial, complete evidence was scanned by learned trial Court and came to the conclusion that prosecution has failed to prove or establish charges under Sections 186, 332, 333 and 353 IPC and Section 61 of the Punjab Excise Act. Learned Trial Court further held that identity of accused – Lakhbir Singh (appellant herein) as driver of Cielo car and co-accused Kamaljit Singh alias Lally was established. Car driven by appellant – Lakbir Singh struck P.H.G. Avtar Singh (respondent No. 2), as a result of which he suffered injuries on his person and fracture on the left and right thumb. The injuries were declared grievous, vide opinion Ex. PC by Dr. Sunita Nadda (PW-1). Giving benefit of doubt, co-accused Kamaljit Singh was acquitted from all the charges framed against him. However, accused Lakhbir Singh (appellant) was convicted under Section 325 IPC, and acquitted under other charges framed against him. It is pertinent to mention here that accused were charged under Section 307 IPC and no specific charge was framed under Section 325 IPC. Since offence under Section 325 IPC is lesser as compared to Section 307 IPC, therefore, learned Trial Court convicted accused Lakhbir Singh (appellant) under Section 325 IPC, as provided under Section 222 Cr.P.C. Vide order of sentence dated 26.09.2007, convict – Lakhbir Singh (appellant) was ordered to undergo following sentence:-

Under Section	Sentence	Fine	In Default
325 IPC	3 years R.I.	Rs. 3,000/-	3 months R.I.

6. Fine was deposited and on an application filed, vide separate order dated 26.09.2007, learned trial Court granted bail to the convict/appellant Lakhbir Singh, till 25.10.2007, enabling him to prefer an appeal before this Court. Hence, this appeal.

7. Appeal was admitted on 12.10.2007 and sentence of imprisonment of the appellant was suspended by this Court, vide order dated 06.11.2007.

8. On 05.07.2022, when the appeal came up for hearing before Co-ordinate Bench of this Court, learned counsel for the appellant stated that he could not contact the appellant despite best efforts and notice be sent to him. Upon this, following order was passed:-

“ Learned counsel for the appellant states that he could not contact the appellant despite best efforts and notice be sent to him.

When the remaining sentence of the appellant was suspended during the pendency of the appeal, he was supposed to ensure his appearance in the Court either in person or through counsel to address arguments. The very fact that he could not be contacted by his counsel despite his best efforts shows that he is misusing such concession and trying to prolong the proceedings. The appeal is of the year 2007. Therefore, the order dated 6.11.2007 granting suspension of sentence and consequent bail to appellant is recalled. Chief Judicial Magistrate, Rupnagar is directed to issue non-bailable warrants of arrest against appellant Lakhbir Singh, depute a special police official for execution of warrants, get appellant arrested and put in jail and then inform the Court in that regard.

Senior Superintendent of Police, Rupnagar is directed to render the necessary assistance in execution of non-bailable warrants of arrest against appellant Lakhbir Singh. Notice to his surety and attesting witnesses be also issued.

Compliance report be sent to this Court by

8.8.2022.”

9. Faced with the aforementioned order, Criminal Miscellaneous Application No. CRM-25060-2022 was filed by the appellant, for modification of the order dated 05.07.2022. On 20.09.2022, when the appeal alongwith criminal miscellaneous application came up for hearing, following order was passed:-

“ Custody certificate filed in respect of the appellant by learned State counsel be taken on record.

Learned counsel for the appellant states that a settlement has been arrived at between the appellant and the complainant side. Ms. Maloo Liberhan, Advocate has put in appearance on behalf of injured Avtar Singh and filed vakalatnama on his behalf. She also placed on record affidavit of Avtar Singh regarding settlement arrived at between the parties.

Under the circumstances, let written compromise in that regard duly signed by the parties along with the affidavit of complainant and injured and the appellant/accused be placed on record. Their appearance be also caused in the Court along with the documents to prove their identity on the next date of hearing fixed as 30.9.2022.”

10. Appellant – Lakhbir Singh also filed Criminal Miscellaneous Application Nos. CRM-143-2023, under Section 482 Cr.P.C., for placing on record copy of compromise deed dated 03.01.2023 (Annexure A-3), and CRM-144-2023, under Section 320 read with Section 482 Cr.P.C., seeking permission for compounding of the offence and acquittal of the appellant of all the charges, with further prayer that judgment of conviction passed by learned Trial Court may be set aside/quashed in view of the compromise arrived at between the parties. CRM-143-2023 was allowed and on oral

request of learned counsel for the appellant, injured – Avtar Singh, who is the sole victim, was impleaded as respondent No. 2, vide order dated 06.01.2023. Another Criminal Miscellaneous Application No. CRM-1631-2023 has been filed by the appellant for placing on record amended memo of parties.

On 24.01.2023, following order was passed by this Court:-

“ Ms. Maloo Chahal, learned counsel for respondent No. 2 has filed reply to application No. CRM-144-2023 in the Court today, which is taken on record and a copy thereof has been handed over to learned counsel for the applicant/appellant.

Private parties are having common stand of arriving at a compromise, and same has already been taken on record of the present appeal, vide order dated 06.01.2023.

There is an order dated 20.09.2022, passed by Co-ordinate Bench of this Court, for appearance of the parties before this Court alongwith proof of identity. Therefore, to have compliance of the order passed by the Co-ordinate Bench, I deem it appropriate to direct Lakhbir Singh (appellant) and Avtar Singh (respondent No. 2/sole victim) to appear before the learned Area Magistrate, on or before 02.02.2023 or on any other date as convenient to the concerned Court of learned Area Magistrate, 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 was declared as a proclaimed offender or any such proceedings have been initiated or pending decision;*
- iv. Whether the compromise is genuine, voluntary, and without any coercion or undue influence.*

To come up on 09.02.2023, awaiting report.

11. In compliance of the said order respective parties, i.e. Lakhbir Singh (appellant) and Avtar Singh (victim-respondent No. 2), did appear before learned Judicial Magistrate Ist Class, Sri Anandpur Sahib, on 06.02.2023 and got recorded their respective statements.

12. Learned Magistrate by recording his satisfaction, prepared a detailed report, in compliance of the order dated 24.01.2023, and forwarded the report vide Memo. No. 701, dated 06.02.2023. Relevant portion of the said report reads as under:-

“2. In compliance of above said order dated 24.01.2023 passed by the Hon'ble Punjab & Haryana High Court, both the parties appeared before this Court for recording their statements with regard to compromise. Firstly, complainant Avtar Singh (i.e. respondent No.2 before the Hon'ble Punjab and High Court) made the following statement in the Court:-

"That an FIR No. 26 dated 14.06.2005 under Section 307, 353, 186, 332, 427 IPC and Section 61-1(A) of Punjab Excise Act, Police Station Nurpur Bedi was registered against accused Lakhbir Singh (i.e. appellant before Hon'ble Punjab and Haryana High Court). I had received injuries in the above said FIR case. Lakhbir Singh and Kamaljit Singh were put to trial. The Ld. Trial Court has acquitted the co-accused Kamaljit Singh from all the charges and the said Lakhbir Singh was only convicted for the offence under Section 325 IPC and he was acquitted of all the charges which was framed against them vide judgment dated 26.09.2007. Said Lakhbir Singh has preferred an appeal before the Hon'ble High Court and during the pendency of the appeal, a compromise has been arrived at between me and appellant Lakhbir Singh. I am the only person who has received injuries in the above said FIR and now with the intervention of respectables and other persons of the locality. I have compounded the offence with said

Lakhbir Singh. I have already filed an affidavit dated 19.09.2022 in the Hon'ble High Court. The compromise which has been arrived at between me and Lakhbir Singh without any ill-will, undue influence, pressure, coercion or fraud. I have been duly compensated on account of injuries received by me. I have no objection if the appellant Lakhbir Singh is acquitted of all the charges framed against him and the permission be granted to us to compound the offence. I have identified my signature on the compromise dated 03.01.2023 as Ex.C1, which has arrived at between me and appellant Lakhbir Singh and Aadhar Card of Avtar Singh as Ex.C2".

3. *Thereafter, accused namely Lakhbir Singh (i.e. petitioner) before Hon'ble Punjab and Haryana High Court) and he made the following separate statement:-*

"That an FIR No.26 dated 14.06.2005 under Section 307, 353, 186, 332, 427 IPC and Section 61-1(A) of Punjab Excise Act, Police Station Nurpur Bedi was registered against me (i.e. appellant before Hon'ble Punjab and Haryana High Court). On the statement of Avtar Singh. That Avtar Singh has received injuries in the above said FIR case. I was convicted by the trial Court vide Judgement dated 26.09.2007 under Section 325 IPC and for three year and fine of Rs.3,000/- and I was acquitted of all the charges which was framed against me and other co- accused Kamaljit Singh was acquitted of all the charges by the Ld. Trial Court vide judgment dated 26.09.2007. Now with the intervention of respectables and other persons of the locality, the controversy in dispute has been settled. The compromise has been effected between me and Avtar Singh is genuine, voluntarily without any ill-will, undue influence, pressure, coercion or fraud. I have never been declared proclaimed offender in the said FIR. I have duly compensated Avtar Singh on account of injuries received by him. I have entered into compromise with Avtar Singh and I be acquitted of all the charges which were framed against me. I have identify my signature on the compromise dated 03.01.2023 Ex.C1, which is arrived between me and Avtar Singh and my Aadhar Card is Ex.C3."

4. *So, from the statements of the parties as noted above, the report is submitted as follows:-*

1. *There is only one accused in the present case namely Lakhbir Singh.*

2. *Complainant Avtar Singh (i.e. respondent No. 2 before Hon'ble Punjab and Haryana High Court) and petitioner/accused Lakhbir Singh (i.e. petitioner before Hon'ble Punjab and Haryana High Court) appeared before this Court and their statements regarding compromise recorded as noted above.*

3. *Accused is neither absconding nor declared as proclaimed person.*

4. *The compromise appears to be genuine, voluntary and without any coercion or undue influence."*

13. From a bare perusal of the said report it is evident that both the parties appeared before learned Magistrate and supported compromise dated 03.01.2023 (Annexure A-3). Learned Magistrate also recorded his satisfaction that *"the compromise appears to be genuine, voluntary and without any coercion or undue influence"*. It is further reported that respondent No. 2 has no objection if the appellant - Lakhbir Singh is acquitted of all the charges framed against him and permission is granted for compounding of the offence.

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

15. Learned counsel for the appellant has confined his submission for compounding the sentence for the reason that a compromise dated 03.01.2023, has been arrived at between the appellant and sole victim/respondent No. 2 – Avtar Singh. Learned counsel for the appellant submits that respondent No. 2 has no desire to make the appellant undergo sentence. Learned counsel for the appellant has placed reliance on the

judgments of 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 and a Full Bench judgment of this Court in the case of Kulwinder Singh v. State of Punjab and another, 2007 (3) RCR (Criminal) 1052 and 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, to substantiate his argument that compounding of offences can be allowed even after conviction, during proceedings of the appeal against conviction pending in High Court/Sessions Court and even in cases involving non-compoundable offences.

16. Learned counsel for respondent No. 2 has joined hands with the appellant and submits that he has instructions to state that in terms of compromise dated 03.01.2023, if the present appeal is allowed and the appellant is acquitted/discharged by this Court, respondent No. 2 will have no objection.

17. 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 appellant for compounding of offence and acquittal/discharge of the appellant on the basis of compromise dated 03.01.2023, entered into between the appellant and respondent No. 2, by submitting that grievous injuries, for which the appellant has been convicted in the present case, were caused to a public servant (respondent No. 2) during discharge of his public

duty. Therefore, framing of charges under Sections 186, 332, 333 and 353 IPC, though appellant was acquitted under those charges, cannot be ignored. Thus, a matter where grievous hurt is caused to a public servant, while doing public duty, cannot be quashed or compounded on the basis of compromise.

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

19. 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 compounded/quashed/finished on the basis of compromise amongst all the parties to *lis*.

20. 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.

21. 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.”

22. In relation to 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)

23. In the case in hand, FIR was lodged under Sections 307, 353, 186, 332 and 427 IPC and Section 61(1)(a) of the Punjab Excise Act. Besides said Sections, the accused were also challaned under Section 333 IPC and Sections 181 and 192 of the Motor Vehicles 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, appellant – Lakhbir Singh was convicted and sentenced for the offence punishable under Section 325 IPC only and acquitted under other charges framed against him. Co-accused – Kamaljit Singh alias Lally was acquitted of all the charges framed against him, giving him benefit of doubt. Furthermore, no appeal has been preferred by the State against the findings recorded by learned Trial Court with regard to acquittal of co-accused Kamaljit Singh alias Lally or acquitting appellant – Lakhbir Singh under other charges, except Section 325 IPC.

24. 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.

25. 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).**”*

26. From a bare perusal of the above, it is evident that broadly it was concluded by their Lordships’ that touchstone for exercising the extraordinary 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.

27. 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.

28. 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.”

29. 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."

30. 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 03.01.2023 between the parties has already been entered, nothing can be achieved by hearing the appeal on merits.

31. The report alongwith statements of the affected parties received from learned Court below would reveal that respondent No. 2 has genuinely effected compromise dated 03.01.2023 with the appellant and he has no objection, if the appellant is acquitted/discharged.

32. At this juncture, it would be pertinent to notice that during the course of arguments, learned counsel for the appellant has also pointed out that though, Criminal Miscellaneous Application No. CRM-144-2023 in CRA-S-2065-SB-2007 has been filed under Section 320 read with Section 482 Cr.P.C., seeking permission for compounding of the offence and acquittal of the appellant of all the charges, with further prayer that judgment of conviction passed by learned Trial Court may be set aside/quashed 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 appellant has prayed that FIR No. 26, dated 14.06.2005, under Sections 307, 353, 186, 332, 427 IPC and Section 61(1)(a) of Punjab Excise Act, registered at Police Station Nurpur Bedi, District Rupnagar, and all the consequential proceedings arising therefrom may be quashed to secure ends of justice.

33. Said contention of learned counsel for the appellant is strengthened with the observations made by their Lordships' of Hon'ble the

Supreme Court, as already noticed and reproduced in Para No. 28 of this judgment.

34. At this stage, before reaching to the final conclusion, this Court would like to consider the objection raised by learned State counsel, because it has been contended that grievous injuries were caused to the public servant while he was performing public duty, compounding or acquittal/discharge of the appellant cannot be permitted on the basis of compromise dated 03.01.2023 (Annexure A-3), entered into between the appellant and respondent No. 2.

Answer to the said objection, are the findings recorded by learned Trial Court in paragraph No. 25 of the impugned judgment of conviction dated 26.09.2007, which says as under:-

“25. The present case is registered under Sections 186, 332, 333, 353 IPC and the charges are framed under these Sections. As per Section 195 Cr.P.C. no prosecution can be lodged without the written complaint of the concerned public servant. It is held in the citation “1999 Criminal Law Journal, Page 1244”, “1998 Criminal Law Times, Page 39” and “1991 (1) RCR, Page 192” that the offence under Sections 332, 333 and 353 IPC are aggravated form of offence under Section 186 IPC and if all these offences are committed in the same transaction then no cognizance can be taken without the written complaint under Section 195 Cr.P.C. In the present case admittedly there is no such written complaint as required under Section 195 Cr.P.C. and hence there is a bar to the proceedings under Sections 186, 332, 333 and 353 IPC in view of the law laid down by the Hon’ble High Court of Punjab and Haryana. Moreover, the prosecution has not led any evidence to prove that the police officials were posted in Police Station Nurpur Bedi and they were on public duty on 14.6.2005 in the area of village Ajampur. No DDR qua the departure of Police Party headed by S.I./SHO Raminder Singh is proved by the prosecution for patrolling duties on 14.6.2005 along with the other police officials whose names are mentioned in the ruqa Ex. PW11/A. Hence the prosecution has failed to prove or

establish these charges under Sections 186, 332, 333 and 353 IPC due to the bar created by Section 195 Cr.P.C.” (emphasis added)

Since, learned Trial Court itself did not find any proof on file that the police officials including Avtar Singh (respondent No. 2) were performing public duty at the time of occurrence, this Court does not find any substance in the objection raised by learned State counsel.

35. In view of above discussion, Criminal Miscellaneous Application No. CRA-144-2023 is allowed. Offence for which appellant was convicted is allowed to be compounded and consequently, FIR No. 26, dated 14.06.2005, registered at Police Station Nurpur Bedi, District Rupnagar, alongwith all consequential proceedings including impugned judgment of conviction and order of sentence, dated 26.09.2007, passed by learned Additional Sessions Judge (Adhoc)-cum-Presiding Officer, Fast Track Court, Rupnagar, are set aside.

36. Criminal Appeal No. CRA-S-2065-SB-2007 and Criminal Miscellaneous Application Nos. CRM-1631-2023 and CRM-25060-2022 are also disposed of accordingly.

(SANJAY VASHISTH)
JUDGE

February 14, 2023

Pkapoor

Whether Speaking/Reasoned: **YES/NO**

Whether Reportable: **YES/NO**