

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

215+328

**CRA-S-1575-SB-2004 (O&M)
Date of Decision: 12.01.2023**

Tara Chand and another	Versus	...Appellants
State of Punjab		... Respondent

CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT

Present : Mr. Aakash Singla, Advocate
for the appellant No. 1.

Mr. Vipin Pal Yadav, Addl. A.G. Punjab.

Mr. Shiv Kumar Rana, Advocate
for the complainant.

Mr. P.R. Yadav, Advocate, as Amicus Curiae.

N.S.SHEKHAWAT, J.

CRM 194 of 2023

Allowed, as prayed for.

CRA-S-1575-SB-2004

On the last date of hearing, learned counsel for the appellant No. 1 had submitted that appellant No. 2 had expired. Even, the learned State counsel has informed the Court today that appellant No. 2 had expired. Consequently, appeal qua him stands abated and is dismissed as such qua appellant No. 2 only.

Learned counsel appearing for respondent No. 2, namely, Surinder Kaur has filed a reply by way of her affidavit and the same is taken on record.

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Learned counsel for the applicant/appellant No. 1 has moved the instant application under Section 320(5) Cr.P.C., read with Section 320(2) Cr.P.C., read with Section 482 Cr.P.C., with a prayer to grant permission to compound the offence as well as disposal of the main appeal on the basis of the compromise arrived at between the parties.

Learned counsel for the applicant/appellant No. 1 submitted that the parties had compromised the matter and the compromise deed has been placed on record as Annexure A-1. As per the said compromise, both the parties had decided to withdraw the cases against each other. Even, the respondent No.2/complainant had filed criminal revision No. 1928 of 2004, which has been withdrawn by respondent No. 2 today itself, on the basis of compromise Annexure A-1.

The learned counsel for respondent No. 2 has placed on record the reply by way of affidavit of respondent No. 2 and he submits that he has no objection, if the present appeal against conviction is allowed, on the basis of compromise (Annexure A-1) and the offences are ordered to be compounded in view of the compromise executed between the parties.

In the instant case, the appellant No. 1 was convicted under Section 420 IPC and was sentenced to undergo rigorous

imprisonment for a period of seven years and to pay a fine of Rs. 10000/- alongwith default stipulation. In view of the provisions contained in Section 320 sub-section 2 of Cr.P.C., the offence under Section 420 IPC can be compounded by the person cheated, with the permission of the Court. Still further, when the accused has been committed for trial or when he has been convicted and an appeal is pending, the composition of the offences can be allowed with the leave of the Court.

It has been held by this Court in the matter of **Sube Singh and another Vs. State of Haryana and another, 2014(2) Crimes 299** as follows:-

*11. The extent and sweep of inherent power exercisable by the High Court under Section 482 Criminal Procedure Code for quashing the criminal proceedings on the basis of compromise between the offender and the victim of crime in a case which is not compoundable under Section 320 Cr.P.C., has since been considered in extenso and answered by the Hon'ble Supreme Court in **Gian Singh v. State of Punjab & Anr., (2012)4 RCR (Criminal) 543**, laying down that the compounding of offence and quashing of criminal proceedings are two separate things and not interchangeable and that the two powers are distinct and different although ultimate consequence may be the same. It has been authoritatively ruled that where the offender and victim have settled their dispute, the High Court in exercise of its inherent power under Section 482 Cr.P.C., is competent to quash criminal*

proceedings even relating to the non-compoundable offences though such a power need to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The pronouncement thus says :-

"52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the

offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under Indian Penal Code or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal

proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

*12. The decision in Gian Singh's case (supra) also approves the view taken by a five-Judge Bench of this Court in **Kulwinder Singh & Ors. v. State of Punjab & Anr., 2007(3) RCR (Criminal) 1052.***

13. It is indeed now unarguable to say that the power exercisable by the High Court under Section 482 Criminal Procedure Code for the quashing of criminal prosecution is limited or affected by the provision of Section 320 Cr.P.C.

The parties have amicably settled the matter in terms of Annexure A-1. Thus, this Court finds that it will be in the larger interest of justice, if the prayer for compounding the offence is accepted.

For the reasons recorded above, the present appeal is allowed; the offence under Section 420 IPC is ordered to be compounded on the basis of compromise Annexure A-1; the FIR No. 93 dated 09.02.2021 under Sections 364, 406, 420 and 120-B IPC registered at Police Station Sadar Jalandhar and all consequential

proceedings arising therefrom are quashed and, as a consequence thereof, the appellant No. 1 stands acquitted of the charge.

The appeal is allowed in the above terms.

All pending applications, if any, are disposed of, accordingly.

The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

Records of the Court below be sent back.

In the end, I record my appreciation for P.R. Yadav, learned Amicus Curiae, who had rendered able assistance to this Court.

12.01.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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