

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

1. CRA-S-593-SB-2006 (O&M)
Date of Decision: 01.03.2023

Naresh Kumar and others ...Appellants
Versus
State of Haryana ... Respondent

2. CRA-S-723-SB-2006 (O&M)

Gulshan and others ...Appellants
Versus
State of Haryana ... Respondent

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

Present : Mr. Keshav Partap Singh, Advocate
for appellants in CRA-S-593-SB of 2006.

Mr. Edward Augustine George, Advocate
for the appellants in CRA-S-723-SB-2006.

Mr. Rajinder Kumar, DAG, Haryana.

N.S.SHEKHAWAT, J.

This judgment shall dispose off the above mentioned two appeals, i.e. **CRA-S-593-SB-2006** and **CRA-S-723-SB-2006**, which arise out of common impugned judgment of conviction and order of sentence dated 03.03.2006 passed by the learned Special Judge, Faridabad, whereby, the appellants in these two appeals were ordered to be convicted under Sections 323/149 IPC and also under Section 3 (x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter to be referred as '**the Act, 1989**') and were sentenced to undergo rigorous imprisonment for six months each alongwith fine of Rs. 500/- under Section 323 read with Section 149 IPC and rigorous imprisonment for one year alongwith fine of Rs. 2,000/- each under Section Section 3 (x) of the Act, 1989 with default stipulations.

The FIR in the instant case was got registered by Ganga Ram son of Ramji Lal PW7. As per the complainant at about 1.30/02.00 p.m. on 10.03.2001, he alongwith his wife and two sons namely, Hari Singh and Bansilal, was present in their house in the village and it was a day of "Dulhandi" (Festival of Colours). On that day, Bhagat Singh, Naresh, Sunil, Rajnish and Gulshan, appellants/accused entered their house, where Suman wife of Hari Singh was present. They all entered the house to put Gulal (colour) on her. They forcibly applied colour on her and touched her inappropriately and hurled caste related abuses at her. On hearing the alarm raised by Suman, Hari Singh, Ganga Ram and Bansilal reached at the spot and requested them to leave the place by stating that they were poor persons. However, the accused did not go away. In that process, Naresh, Bhagat Singh and Sunil gave fists blows on the chest of Hari Singh; Gulshan gave a fist blow on the knees of Bansilal, whereas Rajnish accused, inflicted a blow with a *lathi* on the left hand finger of Leelawati. Thereafter, Bhagat Singh accused, asked them to run away from there by stating that Palwal city was in his grip and they asked them to leave the place and also made caste related derogatory remarks. Thereafter, the matter was reported to the police. With these broad averments, the FIR in the instant case was got registered by Ganga Ram on 19.03.2001.

After the report under Section 173 Cr.P.C. was presented before the competent Court, the appellants/accused were ordered to be charge sheeted for commission of offences punishable under Sections

148, 323, 325 read with Section 149 IPC and Section 3(x) of the the Act, 1989 and the accused pleaded not guilty and claimed trial. Thereafter, the prosecution led its evidence to prove the charge.

At the time of conclusion of the trial, the learned trial Court acquitted all the appellants/accused for the offences punishable under Sections 325 and 148 IPC. However, the learned trial Court held that the prosecution had proved the commission of the offences punishable under Section 323 read with Section 149 IPC and Section 3(x) of the Act, 1989 and were sentenced as mentioned above.

Challenging the said impugned judgment and order, two above mentioned separate appeals were filed by the appellants/accused, who were convicted and sentenced by the learned trial Court. The said appeals was ordered to be admitted by this Court on 30.03.2006 and 21.04.2006 and were pending before this Court.

During the pendency of the present appeal, the appellants/accused have filed two separate applications, i.e. CRM No. 5474 of 2023 in CRA S-593-SB of 2006 and CRM No. 7101 of 2023 in CRA S-723-SB of 2006 under Section 320 read with Section 482 Cr.P.C. for compounding of the offences under Sections 323/149 IPC and Section 3 (x) of the Act, 1989.

Learned counsel for the applicants/appellants submitted that during the pendency of the present appeals, the matter has been amicably settled between the parties and the compromise deed dated 27.01.2023 has been filed before this Court as Annexure P-1. Learned counsel for the applicants/appellants submitted that the alleged

occurrence had taken place on 10.03.2001 on the occasion of Holi festival and the occurrence had taken place at the spur of moment. However after conviction, the matter was settled between them with the intervention of the relatives and the brotherhood. Even both the sides are residents of village Sikanderpur, which is a small village in District Palwal. The parties are also neighbours and have been visiting each other for the several years. Even both the parties were living peacefully and had resolved all their disputes without any pressure, threat, coercion or misrepresentation. It was further contended that four persons had suffered injuries in the present case and out of them one injured, namely, Hari Singh, had already expired. Three injured namely, Suman, Leelawati and Ganga Ram are alive and have signed the compromise in the presence of the witnesses.

Separate short replies have been filed in the above mentioned applications for compounding of the offences and are duly supported by the affidavit of Ganga Ram, complainant/injured in this case. Learned counsel for the complainant/injured stated that the parties had amicably resolved all the disputes pending between them and he has no objection in case the applications i.e. CRM No. 5474 of 2023 in CRA S-593-SB of 2006 and CRM No. 7101 of 2023 in CRA S-723-SB of 2006 for compounding of the offences are allowed by this Court and the appeals may kindly ordered to be disposed off in view of the compromise between the parties.

I have heard learned counsel for the parties.

It has been held by a Full Bench of this Court in the matter of **Kulwinder Singh and others Vs. State of Punjab and another, 2007 (3) RCR (Criminal) 1052** as follows:-

“25. 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 Criminal Procedure Code. 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".

26. In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others, (1980)1 SCC 63, 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."

27. 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. No embargo, be in the shape of Section 320(9) of the Criminal Procedure Code, or any other such curtailment, can whittle down the power under Section 482 of the Criminal Procedure Code.

28. 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 Criminal Procedure Code 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 Criminal Procedure Code 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.

29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code 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 Criminal Procedure Code, in order to prevent the abuse of law and to secure the ends of justice.

30. The power under Section 482 of the Criminal Procedure Code 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 Criminal Procedure Code 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 extraordinary 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.”

Adverting to the facts of the present case, it is apparent that present appellants have been convicted for the offences punishable under Sections 323/149 IPC. The offence under Section 323 IPC is compoundable as per the provisions contained in Section 320 of the Cr.P.C. The appellants have also been convicted for the offence punishable under Section 3 (x) of the Act, 1989. However, the power of the High Court in quashing the criminal proceedings or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the powers given to a criminal Court for compounding the offences under Section 320 of the Code of Criminal Procedure. Inherent power is of wide plenitude with no statutory limitations. However, such powers have to be exercised in accord with the guidelines engrafted in such power viz. : (i) to secure the ends of justice, or (ii) to prevent the abuse of process of any Court. The High Court should have due regard to the nature and gravity of the crime.

The heinous and serious offences of mental depravity or offences like murder, rape, dacoity etc., cannot be quashed, even though the victim or victim's family and the offenders have settled the dispute. However, the offences, which are private in nature and have no serious impact on the society, can be compounded between the victim and the offender. In the instant case also, the parties are residents of a small village and are neighbours. Even, the occurrence had taken place on 10.03.2001 and the parties had decided to bury the hatchet. They have resolved all their disputes with the intervention of the respectables and well wishers and even a formal compromise Annexure P-1 has been filed before this Court by way of above mentioned applications. Even, the facts of the present case are clearly covered by the ratio of the law laid down by the Hon'ble Supreme Court in the matter of **Ramgopal and another Vs. State of Madhya Pradesh 2021(4) R.C.R. (Criminal) 322: 2021(4) Crimes 17.**

In view of the above discussion, both the applications i.e. CRM No. 5474 of 2023 in CRA S-593-SB of 2006 and CRM No. 7101 of 2023 in CRA S-723-SB of 2006 are allowed and all the offences emanating out of the FIR, which led to the filing of the above mentioned both the appeals stands annulled and the impugned judgment of conviction and order of sentence dated 03.03.2006 passed by the learned Special Judge, Faridabad, are set aside. As a consequence, the appellants shall be deemed to have been acquitted of the charges for all intents and purposes.

All pending applications, if any, are disposed off, 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.

01.03.2023
amit rana

(N.S.SHEKHAWAT)
JUDGE

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