

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M No.22879 of 2018(O&M)
Date of decision: 02.02.2023

Roop Singh

.....Petitioner(s)

Vs.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr.Rajeev Sharma, Advocate for the petitioner(s)

 Mr. Aditya Kapoor, AAG, Punjab.

 Mr. Vikrant Duggal, Advocate for respondents No.2 and 3.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
266	29.11.2011	Focal Point, Ludhiana City	279/304-A/427 IPC

The petitioner, arraigned as accused in the above captioned FIR, has come up before this Court under Section 482 CrPC for quashing of the FIR and all consequential proceedings based on the compromise with the aggrieved person.

2. During the pendency of the petition, the accused and the aggrieved person have compromised the matter, and its copy is annexed with this petition as Annexure P-2.

3. After that, the petitioner came up before this Court to quash the FIR, and in the quashing petition, impleading the aggrieved person as respondent.

4. The State’s counsel has severely opposed this compromise and seeks dismissal of the petition because of the heinous nature of the offence.

5. In Manish Jalan v. State of Karnataka , (SC), 2008(8) SCC 225, Supreme Court holds,

[6]. On the question of compounding of the offences, as prayed for in the affidavit, Section 320 of the Code of Criminal Procedure, 1973 (for short 'Criminal Procedure Code') dealing with "compounding of offences", provides that only such offences as are included in the two tables, provided there under can be compounded. Sub-section (9) of Section 320

Criminal Procedure Code imposes a specific bar on compounding of other offences, not included in the two tables. Admittedly, offences punishable under Sections 279 and 304A, Indian Penal Code do not figure in the said tables and are, therefore, not compoundable. Conscious of the legal position, learned counsel did not press for compounding of the offences. Accordingly, we reject the prayer for compounding.

6. In *Puttaswamy v. State of Karnataka*, 2009(1) SCC 711, Supreme Court holds,

[4]. During the hearing of this appeal, at the admission stage, learned counsel for the appellant informed the Court that the matter had been settled between the parties and a compromise petition had been executed between the appellant and the complainant. On such submission, the complainant was impleaded as a party to the present proceedings and the short point which ultimately arose during the hearing is whether the offence under Section 304-A could at all be compounded since the same is not covered by the provisions of Section 320 Indian Penal Code.

[5]. The aforesaid question has troubled this Court on different occasions, not only in connection with compounding of offences punishable under the criminal justice system, but also in respect of civil matters, and in respect of matrimonial matters in particular, where the Court had to strike a balance between the rigidity of the law and doing substantial justice to the parties. In order to meet certain unusual situations, this Court has from time to time taken recourse to innovations and the powers vested in it under Article 142 of the Constitution, in order to give a quietus to a litigation demanding a pragmatic solution. It has also been consistently held by this Court that when an offence did not come within the ambit of Section 320 of Criminal Procedure Code but the proceedings taken on the basis thereof deserved to be terminated, a sentence could always be reduced while maintaining the conviction and in most cases the sentence was reduced to the period of the sentence already undergone. In other cases, where circumstances so warranted, even the sentence was altered which at times brought the proceedings within the scope of Section 320 of Criminal Procedure Code and the offence was allowed to be compounded.

[6]. In this connection regard may be had to the decision of this Court in the case of *Surendra Nath Mohanty and another v. State of Orissa*, 1999(2) RCR(Criminal) 683 : [(1999)5 SCC 238], which was disposed of by a Three-Judge Bench, wherein in respect of a conviction under Section 326 Indian Penal Code the sentence was reduced to the period already undergone together with fine. Of course, as mentioned hereinbefore, the said decision was rendered in the facts of the said case.

[7]. Reference was also made to two other decisions of this Court in i) *Ram Lal and another v. State of J & K*, 2000(1) RCR(Criminal) 92 : [(1999)2 SCC 213] and ii) *Bachhu Singh v. State of U.P.* [(2000(10) SCC 313], wherein the same formula was applied.

[8]. As far as the other proposition is concerned, reference may be made to the decision of this Court in the case of *Avinash Shetty v. State of Karnataka and another* [(2004(13) SCC 375] where the conviction was altered from Section 326 to 324 Indian Penal Code and the offence was

permitted to be compounded. There is yet another decision in the case of *Y. Suresh Babu v. State of A.P. [(2005)1 SCC 347]* which deals directly with a conviction under Section 326 Indian Penal Code. This Court allowed the parties to compound the case in the special facts and circumstances of the case, but also directed that the same was not to be treated as a precedent.

[9]. What emerges from all these decisions is that even if an offence is not compoundable within the scope of Section 320 of Code of Criminal Procedure the Court may, in view of the compromise arrived at between the parties, reduce the sentence imposed while maintaining the conviction. In the present case, the appellant has been convicted under Sections 279 and 304A of the Indian Penal Code and has been sentenced to undergo simple imprisonment for a period of 6 months and to pay a fine of Rs. 2,000/-. The sentence as far as conviction under Section 279 Indian Penal Code is concerned has been set aside by the High Court. What remains after the judgment of the High Court is the conviction under Sections 279 and 304-A Indian Penal Code wherein the appellant was sentenced to undergo six months simple imprisonment along with a fine of Rs. 2,000/-. In our view, this is one of those cases where instead of confining the appellant in prison, the interest of justice will be better served if he is made to compensate the family of the deceased on account of the loss suffered by them.

[10]. Accordingly, while maintaining the appellant's conviction under Sections 279 and 304-A Indian Penal Code, notwithstanding the agreement arrived at between the parties, we increase the amount of fine from Rs. 2,000/- to Rs. 20,000/- to be paid by the appellant to the parents of the deceased and reduce the sentence to the period already undergone, subject to payment of the fine. The aforesaid amount is to be deposited by the appellant in the Trial Court within three weeks from date, and on such deposit, the said amount shall be made over to the parents of the deceased and the appellant shall be released forthwith. In default of such deposit, this order shall remain in abeyance for a period of four weeks and if still no deposit is made within the said period the appeal will stand dismissed.

7. The contents of compromise deed and its objectives point towards its rejection, in the light of the Judicial precedents mentioned above.

8. Although this court has rejected the compromise; however, the fact remains that the interested parties had compromised the matter. As such, this court requests Id. trial court to expedite the trial. Parties to bring this request to the notice of the concerned Magistrate.

Petition dismissed in the terms mentioned above. All pending applications, if any stand closed.

(ANOOP CHITKARA)
JUDGE

02.02.2023
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Whether speaking/reasoned: Yes
Whether reportable: No.