

242 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-809-2019 (O&M)
DECIDED ON:17th JANUARY, 2023

JAGJIT SINGH

.....PETITIONER

VERSUS

HDFC BANK LIMITED

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. K.S. Brar, Advocate
for the petitioner.

Mr. Saurabh Bhardwaj, Advocate
for the respondent.

SANDEEP MOUDGIL, J (ORAL)

The instant Revision Petition has been filed for setting aside the impugned judgment dated 05.03.2019 passed by learned Additional Sessions Judge, Bathinda whereby the appeal filed by the appellant against the judgment dated 01.06.2018 passed by learned Judicial Magistrate Ist Class, Bathinda has been dismissed.

During the pendency of instant revision petition, parties arrived at an amicable settlement and vide order dated 08.09.2022, parties were directed to appear before learned trial Court for recording of their statements with regard to compromise.

Report of learned trial Court has been received, in which, it has been

mentioned that a compromise effected between the parties is voluntary and

without any coercion or undue influence. The same is genuine one.

Learned counsel for the parties have stated at the bar that matter involved is personal in nature, which has been amicably settled.

After having elaborately heard learned counsel for the parties and on perusal of record as well as report submitted by learned trial Court in respect of compromise, this Court is satisfied that compromise has been arrived at between the parties and after such compromise, no dispute subsists between them.

In **Kulwinder Singh and others v. State of Punjab and others, 2007 (3) RCR (Criminal) 1052**; a Full Bench of this Court while relying upon ratio of law laid down in **Abasaheb Yadav Honmane v. State of Maharashtra; 2008 (3) All India Criminal Law Reporter 676**; had held that FIR including the judgment of conviction and order of sentence recorded by learned trial Court, and affirmed by appellate Court, can be quashed or set aside, on the basis of compromise if the facts and circumstances, of the particular case, so warrant.

In **Kulwinder Singh's case (supra)**, while approving the minority view in **Dharambir v. State of Haryana; 2005 (3) RCR (Criminal) 426**; a Full Bench of this Court observed as under:-

“27. 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 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”.

28. In Mrs. Shakuntala Sawheny v. Mrs. Kaushalya Sawheny and others (1980) 1 SCC 63, Hon'ble Krishan 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.”

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.

29.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.

30.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 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.

31.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 powers of this Court under Section 482. Further, the same cannot be limited to matrimonial case alone and the Court has the wide power to quash the proceedings even if 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.

32. 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 parameters 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 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 everlasting 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 case in hand, parties to the *lis* have buried their hatchet at a penultimate stage i.e. at appellate stage. In case, compromise is accepted and proceedings are quashed, it would certainly create harmonious relationship between the parties and would result into removal of bitterness or ill-will existing between them since long. Applying the ratio of law emerging from above-referred cases to the facts and

circumstances of the instant case, this Court is of the considered view that once a matter has been compromised by the parties, no useful purpose would be served by continuing the proceedings and to decide the matter between parties on merits. Rather, it would be nothing but an abuse of process of law as well as wastage of time not only of the Court but also of the parties.

As an upshot of afore-said discussion, instant petition is allowed and judgments/orders rendered by Courts below are set aside and the petitioner stands acquitted of the charges.

In view of the order passed in the main revision petition, all the pending criminal misc. applications have been rendered infructuous and as such disposed off .

17th JANUARY, 2023

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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*