

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

250

CRR-1139-2022(O&M)
Date of decision: 20.09.2023

Kulwinder Singh

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr. Sahil Soi, Advocate for the petitioner.

Mr. H.S. Sullar, Sr. DAG, Punjab.

Mr. RPS Jammu, Advocate for
Mr. P.S. Jammu, Advocate, for respondent No.2.

AMAN CHAUDHARY, J.

1. The present revision petition has been filed challenging the order dated 10.05.2022 passed by learned Additional Sessions Judge, Jalandhar dismissing the appeal filed against the judgment dated 14.02.2019 passed by learned Judicial Magistrate Ist Class, Nakodar whereby the petitioner was convicted and sentenced as under:

Offence U/s	Imprisonment	Fine	Default sentence
279 IPC	RI for 6 months	Rs.70,000/-	SI for 4 months
337 IPC	RI for 6 months		
338 IPC	RI for 2 years		

2. The facts in brief are that on 16.10.2013, complainant-Gurbachan Singh was going from his house towards Malsian village on his motorcycle at about 1.30 p.m., when he got hit by a truck, and received injuries. On his statement, FIR under Sections 279, 337, 338 and 427 IPC was got registered. After completion of the investigation, challan was presented, on the basis of which charges were framed, to which the accused pleaded not guilty and claimed trial.

3. In order to bring home the guilt of the accused, the prosecution examined as many as five witnesses. On closure of the prosecution evidence, statement of the accused-respondent was recorded under Section 313 Cr.P.C. He denied all the incriminating circumstances appearing against him while pleading false implication. In defence, no witness was examined.

4. On scrutinizing the evidence led by the parties, the trial Court convicted and sentenced the accused-petitioners as noticed above.

5. Aggrieved accused-respondent had filed an appeal, which was dismissed by learned Additional Sessions Judge, Jalandhar vide order dated 10.05.2022.

5. Challenge to the aforesaid judgment and order has been made in the present revision petition.

6. Learned counsel for the petitioner submits that during the pendency of the present petition, the matter stands compromised between the parties with the intervention of the respectables. The petitioner is a first time offender and has never misused the concession of bail granted to him and paid the compensation amount to the injured-respondent No.2.

Since both the parties are residing in the same village and the incident is of the year 2013, he prays for compounding of the offence in view of the law laid down in **Ramgopal vs. State of M.P.**, 2021 SCC OnLine SC 834 and **Surat Singh vs. State of Uttaranchal**, (2012) 12 SCC 772.

7. Learned counsel appearing for the complainant-respondent No.2 has no objection with regard to the prayer made by the petitioner and states that a valid compromise has been effected between the parties and there remains no grievance.

8. Heard.

9. It is apparent that during pendency of the present revision petition, the parties have entered into compromise and have amicably settled the dispute. In the compromise deed dated 21.12.2022, Annexure A-1, it has been mentioned that now both the parties upon the intervention of the respectable persons of village, society and relatives, all the doubts and misconceptions have been clarified, all the disputes have been resolved and an amicable compromise was arrived at before the Panchayat. The petitioner has paid the compensation amount. The complainant-respondent No.2 has also given no objection for compounding the offence and setting aside the judgment of the conviction/ order of sentence dated 14.02.2019 as well as appeal against the same, which was dismissed vide order dated 10.05.2022.

10. In pursuance of the order dated 16.01.2023, passed in CRM-1089-2023, a report dated 06.02.2023 has been received from learned Judicial Magistrate, Ist Class, Nakodar. A perusal of the same reveals that statements of the concerned persons have been recorded in the

present case, who have stated that the matter has been settled between them and they have no objection in case the conviction is set aside. The compromise effected between them is genuine, without any undue influence and coercion. It is stated in the report that there is only one accused. None of the accused has been declared as proclaimed offender and involved in any other FIR.

11. In **Mohd. Azher Ahmed vs. State of A.P.**, 2020 (4) R.C.R. (Criminal) 97, Hon'ble The Supreme Court set aside the conviction recorded and sentence imposed under Section 338 IPC, where the victim had expressed his no objection for compounding the offence against accused-appellant.

12. Hon'ble The Supreme Court in **Ramgopal** (supra) while acquitting the accused on the basis of the compromise arrived at between the parties had observed that, "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 extra-ordinary 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.”

13. The offence under Sections 279 and 338 IPC were compounded by the trial Court on the basis of compromise that had arrived between the parties, which was further upheld by this Court in the case of **State of Punjab vs. Shinder Paul**, 1992(3) RCR (Criminal) 506.

14. In **Sukhmohinder Singh vs. State of Punjab and another**, CRR-2420-2017 decided on 29.11.2017, this Court compounded the offences and set aside the judgment of conviction under Section 279 and 338 IPC, where the parties had entered into a compromise.

15. This Court, in **Kamal vs. Sunil Kumar**, CRR-1535-2021 decided on 25.11.2021 observed and held that “as per Section 320(6) of the Cr.P.C, the High Court or the Court of Sessions, as the case may be, even while exercising the powers of revision as envisaged under Section 401 of Cr.P.C can compound the offence.” Further, while compounding a non-compoundable offence after a compromise had been effected, this Court in **Sube Singh and another vs. State of Haryana and another**, 2013(4) RCR (Criminal) 102 had held that, “we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 CrPC after conviction of an accused by the trial Court and during pendency of appeal against such conviction,

it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.”

16. Applying the ratio of the abovesaid judgment to the facts of the present case that the petitioner has clean antecedents; parties are co-villagers and residing in the immediate vicinity of each other, who have amicably resolved the dispute, that relates to the year 2013; thus, no useful purpose would be served by prolonging the matter and it will be in the larger interest of the village community in general and parties in particular, that the prayer for compounding the offence is accepted. The judgment of conviction and order of sentence passed by the Courts below are set aside. As such, the present revision petition is disposed of. The bail bonds of the petitioner shall stand discharged forthwith.

20.09.2023
Ankur

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned :

Yes / No

Whether reportable :

Yes / No