

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

CRM-M-22488-2023 (O&M)

Date of order: 05.05.2023

Bhagwant Singh

... Petitioner(s)

Versus

State of Haryana & another

...Respondent (s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Krishan Singh, Advocate
for the petitioner(s).

ANOOP CHITKARA, J.

Seeking a direction to the lower Appellate Court to decide application under Section 391 CrPC filed by the petitioner-accused Bhagwant Singh, for additional evidence, the petitioner has come up before this Court under Section 482 CrPC.

The petitioner claims in paragraph 5 of the petition that after registration of the FIR, the parties tried to settle their disputes and accordingly, 2-3 panchayats were held between them, in which respectable persons from both the sides were present. After conviction, another compromise deed dated 18.4.2016 was entered between the parties, as per which, the petitioner was supposed to pay a sum of Rs.3,00,000/- and in case he pays, the complainant would have no objection to quashing of the FIR. The petitioner submits that as per the said compromise, he paid Rs.3,00,000/- and has annexed a copy of the compromise deed dated 18.4.2016 as Annexure P-4.

Counsel for the petitioner submits that consequent upon compromise, he filed an application (Annexure P-5) under Section 391 CrPC before the Appellate Court to compound the offence, for the reason that the offence was compoundable. However, as per the petitioner, the Appellate Court was of the view that all the accused had to file an application for compounding and partial compounding is not allowed.

Counsel for the petitioner referred to paragraphs 7 and 8 of the petition and

submitted that the petitioner had filed a quashing petition based on compromise before this Court, in which the Court directed the parties to appear before the concerned Illaqa Magistrate and get their statements recorded. In the meanwhile, according to the petitioner, the complainant became greedy and demanded Rs.5,00,000/- more to get his statement recorded. The aforesaid agreed amount of Rs.3,00,000/- had already been paid by the petitioner to the complainant. The new demand of Rs.5,00,000/- was contrary to the compromise dated 18.4.2016, in which the complainant had specifically stated that he had received Rs.3,00,000/-.

Given the stand of the complainant not to compromise, the petition for quashing based on compromise was disposed of vide order dated 17.10.2022 passed in CRM-M-32410-2016 with liberty to file a fresh one on a workable compromise.

After that, the petitioner filed another petition before this Court for quashing on merit, which was registered as CRM-M-61032-2022, however, he withdrew the same stating that he would be contended and satisfied in case he is permitted to file documents of compromise, which shows that entire money has been paid, under Section 391 CrPC before the appellate Court. Such liberty was granted to the petitioner.

Accordingly, the petitioner filed an application under Section 391 CrPC, which was disposed of vide order dated 24.2.2023 passed by Additional Sessions Judge, Yamuna Nagar at Jagadhri with liberty to place on record the original of the alleged compromise deed dated 18.4.2016.

Thereafter, the petitioner filed an application to place on record the original compromise deed dated 18.4.2016 before the appellate Court vide order dated 16.3.2023.

Aggrieved by non-decision of the Appellate Court, upon placing on record the original compromise deed, the petitioner had come up before this Court

Even if the factum of compromise is taken on record by the Appellate Court, still it cannot be a ground for quashing of conviction by the Sessions Court, for the reason that the lower appellate Court has no such power. Under Section 391 CrPC, the appellate Court can only take the additional evidence, if required with the petitioner's appeal. Given above, it is for the Appellate Court to take a decision thereon. This Court refrains from passing any such direction. However, the petitioner is at liberty to file a petition under Section 482 CrPC before this Court, seeking quashing of conviction subject to annexing all the orders passed by all the

Courts, including annexing original copy of the compromise deed and all other documents of the compromise whatsoever available. It is further clarified that in case any such petition is filed before this Court, the previous order(s) shall not come in the way of the petitioner.

The present petition is disposed of, with liberty aforesaid.

(ANOOP CHITKARA)
JUDGE

May 05, 2023
AK

Whether speaking/reasoned	:	Yes
Whether reportable	:	No