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

CRR-1596-2022 (O&M)

Date of Decision: 19.04.2023

Sanjiv Jindal

... Petitioner

Versus

State of Punjab and another

... Respondents

CORAM:- HON'BLE MR. JUSTICE SANJIV BERRY.

Present:- Mr. Hitesh Verma, Advocate for petitioner.

Ms. Kanica Sachdeva, AAG, Punjab.

Ms. Komaljit Kaur, Advocate for

Ms. Reeta, Advocate for respondent No.2.

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SANJIV BERRY, J. (ORAL)

By way of the present criminal revision petition the petitioner has assailed the judgment dated 22.07.2022 passed by the learned Sessions Judge, Mansa, upholding the judgment dated 21.09.2017 passed by the learned Chief Judicial Magistrate, Mansa, convicting the petitioner under Section 138 of Negotiable Instrument Act (for short 'the Act' of 1881) and sentencing him to undergo rigorous imprisonment for two year and to pay fine of ₹10,000/- and in default of payment of fine, to further undergo simple imprisonment for a period of 5 days.

2. During the pendency of this petition, it had been represented by the petitioner that the matter has been amicably resolved amongst the parties and consequently this Court vide order dated 25.08.2022 had directed the parties to appear before the Trial Court/Illaq Magistrate and to get their

statements recorded qua the factum of compromise.

3. Report of learned Chief Judicial Magistrate, Mansa has been received, as per which the statements of the parties have been recorded and it has been opined that the parties have voluntarily entered into a compromise and that the compromise/settlement is genuine and not the result of any pressure or coercion.

4. A perusal of the said compromise dated 19.08.2022 (Annexure A-1) would show that an amount of ₹2,25,000/- has been paid by the petitioner to the complainant -Bhushan Kumar and the said Bhushan Kumar has submitted that as per the said terms of compromise, he has no objection, if the revision petition is accepted.

5. Learned counsel for the complainant/respondent No.2- Bhushan Kumar, has reiterated the factum of the compromise having been effected between the parties is genuine and bonafide having been entered into without any coercion, undue influence or pressure and the same would help in bringing out peace and harmony between the parties. He as such, prayed that the present petition be allowed.

6. Learned counsel for the petitioner has also relied upon the judgment dated 29.09.2021 of *Hon'ble Supreme Court of India in Criminal Appeal No. 1489 of 2012 titled as "Ramgopal & Anr. V. The State of Madhya Pradesh."* and has prayed that the present petition be allowed.

7. Learned State counsel has submitted that the present case emanates from a complaint under Section 138 of the Act of 1881 and thus, the State does not have any role in the present case.

8. The learned counsel for the parties have been heard.
9. The Hon'ble Supreme Court of India in **Ramgopal and Anr.'s case** (supra) has discussed in detail the power of the High Court under Section 482 Cr.P.C. along with other issues. The relevant portion of said judgment is reproduced as under:-

“2. The prosecution version, arising out of FIR dated 3rd November 2000, Police Station Ambah, Morena, M.P. is that on account of certain monetary dispute, the Appellants abused and assaulted Padam Singh (Complainant). Appellant No.1 is alleged to have struck the Complainant with a pharsa, which resultantly cut off the little finger of his left hand. Appellant No.2 also struck lathi blows on the body of the Complainant. Appellants were thereafter committed for trial under Sections 294, 323 and 326 read with 34 of Indian Penal Code, 1860 (hereinafter, ‘IPC’) and Section 3 of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes) Act, 1989. Upon analyzing the evidence, the Learned Judicial Magistrate(FC), Ambah, convicted the Appellants under Sections 294, 323 and 326 read with 34 IPC with a maximum sentence of three years under Section 326 read with 34 IPC.

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12. The High Court, therefore, having regard to the nature of the offence and the fact that parties have amicably settled their dispute and the victim has willingly consented to the nullification of criminal proceedings, can quash such proceedings in exercise of its inherent powers under Section

482 Cr.P.C., even if the offences are non compoundable. The High Court can indubitably evaluate the consequential effects of the offence beyond the body of an individual and thereafter adopt a pragmatic approach, to ensure that the felony, even if goes unpunished, does not tinker with or paralyze the very object of the administration of criminal justice system.

13. It appears to us that criminal proceedings involving non- heinous offences or where the offences are predominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On

*the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in **Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra)**.*

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19. 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 extraordinary 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.”

10. A perusal of the above said judgment would show that it has been held that the extra ordinary power enjoined upon a High Court under Section 482 Cr.P.C., can be invoked beyond the metes and bounds of Section 320 Cr.P.C. It has further been observed that criminal proceedings involving non heinous offences can be annulled irrespective of the fact that

trial has already been concluded and appeal stands dismissed against conviction and that handing out punishment is not the sole form of delivering justice. Thus, it goes without saying, that the cases where compromise is struck post conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident.

11. Moreover the compromise in question would further serve as an everlasting tool in favour of the parties for which indulgence can be given by this Court. The revisional exercise would also be in consonance with the spirit of Section 147 of Negotiable Instruments Act. It would be worth mention here that the principle as laid down in **Damodar S. Prabhu vs. Sayed Babalal, AIR 2010 (SC) 1097**, would also be squarely fortified if the compromise in question is allowed to be effected between the parties with leave of the Court. Reliance can be placed on **Kaushalya Devi Massand vs. Roopkishore Khore, 2011 (2) RCR (Criminal) 298**.

12. Hon'ble the Supreme Court in ***Damodar S. Prabhu's case (Supra)*** had observed that in case, compromise has been effected at the stage of as in the present case, 15% of the cheque amount would have to be deposited by the petitioner as costs.

13. Thus, keeping in view the above said facts and circumstances, the present petition is allowed, impugned judgment dated 22.07.2022 passed by Id. Sessions Judge, Mansa vide which conviction and sentence of the petitioner was upheld, and all the subsequent proceedings arising therefrom, stands quashed.

14. The revision petition is allowed subject, however, to deposit of

15% of the cheque amount, as per the ratio laid down in **Damodar S. Prabhu's case (supra)** with the Punjab State Legal Services Authority, within a period of one month from the date of receipt of certified copy of this order.

15. However, in case, the petitioner fails to deposit the costs within the stipulated period, the present revision petition shall be deemed to have been dismissed without further reference to this Court.

16. All the pending miscellaneous application(s), if any, stand disposed of in view of the above said judgment.

(SANJIV BERRY)
JUDGE

19.04.2023
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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |