

CRR-2326-2022 (O&M)

-1-

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2326-2022 (O&M)

Date of Decision:31.05. 2023

Karambir and others

... Petitioners

V/s.

State of Haryana and another

... Respondents

CORAM: **HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present : Mr. Sandeep Sharma, Advocate
for the applicants- petitioners.

Mr. Karan Garg, AAG, Haryana.

Mr. Rishi Lal, Advocate
for the complainant/respondent No. 2.

DEEPAK MANCHANDA, J.(Oral)

The instant revision petition has been preferred for setting aside the impugned judgment dated 10.10.2022 passed by the Additional Sessions Judge, Hisar dismissing the appeal and judgment of conviction/sentence order dated 12/17.04.2017 passed by the Judicial Magistrate 1st Class, Hisar in case FIR No. 1056 dated 18.11.2012 under Sections 323, 324, 326, 506 and 34 IPC, P.S. Sadar, Hisar whereby the petitioners were held guilty

CRR-2326-2022 (O&M)

-2-

under Section 323 read with Section 34 of IPC and sentenced to undergo simple imprisonment for a period of one year, under Section 324 read with Section 34 IPC, sentenced to undergo imprisonment for a period of two years and under Section 326 read with Section 34 IPC, the convicts are sentenced to undergo imprisonment for a period of 03 years, however all sentences were ordered to run con-currently and to pay a compensation of Rs. 60,000/- (Rs. 20,000/- each accused-petitioner) to be paid to complainant.

The brief facts of the case are the FIR was registered on the statement of complainant-respondent No. 2 that he is serving in Haryana Police IRB. On 16.11.2012 he was on leave and at around 9-10 a.m., he had gone to his field, which is adjacent to the fields of the petitioner No.1- Karambir. He had put a water pipe in *Dol* which is situated in between their fields. In the meantime, wife of the petitioner No. 1 namely Sewapatti i.e. Petitioner No. 2 asked the complainant to take away the pipe from *Dolla* on which he said they have equal right with the *Dol*. On this, some altercation took place between him and Sewapatti. Thereafter Sewapatti (Petitioner No. 2) and Karambir- (Petitioner No.1) along with Pawan (Petitioner No. 3), Mahender, Ramdhari and Kala son of Karambir came and inflicted injuries on the complainant with *gandasi* and *darati*, due to which he fell unconscious.

Vide order dated 16.03.2023, it has been observed that learned counsel for the petitioners submitted that during the pendency of the revision petition, both the parties to the dispute have amicably resolved their

CRR-2326-2022 (O&M)

-3-

disputes and in this regard, CRM No. 5160 of 2023 was filed under Section 482 Cr.P.C. with the prayer to set aside/quash the proceedings on the basis of compromise. Keeping in view the compromise effected between the private parties, they were directed to appear before the concerned Illaqa Magistrate/Trial Court to get their statements recorded with regard to compromise.

In compliance of order dated 16.03.2023, report has been received from Judicial Magistrate 1st Class, Hisar dated 03.04.2023 wherein it has been mentioned that none of the petitioners have been declared P.O. and they are not involved in any other case, further the compromise has been effected between the parties and the same is without any threat, coercion, pressure or any undue influence etc. and they have prayed for quashing of the present FIR as well.

Having heard the learned counsel for the parties and after perusing the report submitted by the trial Court, this Court finds that the matter has been amicably settled between the petitioners and the complainant and by the passage of time, the parties have decided to bury their hatchet and compromised the dispute amicably.

The Hon'ble the Supreme Court has amply clarified the legal position on recognizing compromise in the case of **Gian Singh Vs. State of Punjab and another**, 2012 (4) RCR (Criminal) 543, and has observed as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its

CRR-2326-2022 (O&M)

-4-

inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or

CRR-2326-2022 (O&M)

-5-

such like transactions or the offences arising out of matrimony relating to dowry, etc. or the family disputes where the wrong is basically private or personal in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

Further the Full Bench judgment of this court in **Kulwinder Singh and others Vs. State of Punjab**, 2007 (3) RCR (Criminal) 1052, has held that quashing of complaint and proceedings can be permitted even after conviction.

Also, the view taken by the Hon'ble Supreme Court regarding

CRR-2326-2022 (O&M)

-6-

quashing of FIRs where the compromise is struck, post conviction, has been discussed in “Ram Gopal & Anr. Vs. State of Madhya Pradesh” 2021(4) RCR (Criminal) 322, relevant of which is as under:-

"13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly 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."

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20. Having appraised the afore-stated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under Article 142 and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an

CRR-2326-2022 (O&M)

-7-

offence of such a serious nature: that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal (s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute (s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant (s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decisively to forget and forgive any ill-will and have no vengeance against each other; and Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.”

In view of the report of Judicial Magistrate First Class, Hisar, the compromise and the principles laid down in conspectus of aforesaid judicial precedents, no useful purpose would be served by continuing the proceedings. Consequently, and for the reasons stated above, read with the compromise, this Courts finds it appropriate to quash the criminal proceedings in the aforesaid case.

CRR-2326-2022 (O&M)

-8-

As a sequel thereto, the petition is allowed and considering the facts and circumstances of the present case and exercising the power under Section 482 Cr.P.C. as prayed vide CRM No. 5160 of 2023 impugned judgement dated 10.10.2022 passed by Additional Sessions Judge, Hisar dismissing the appeal, the impugned judgment dated 12.04.2017 and sentence order dated 17.04.2017 passed by Judicial Magistrate 1st Class, Hisar are set aside and the petitioners herein are acquitted on the basis of compromise.

Pending application(s), if any, also stand disposed of.

(DEEPAK MANCHANDA)
JUDGE

31.05. 2023
seema

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether Reportable</i>	<i>Yes /No</i>