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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-405-SB-2003 (O&M)
Date of decision: 30.05.2024

Sonu and others

...Appellants

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR JUSTICE HARPREET SINGH BRAR

Present: Mr. Keshav Pratap Singh, Advocate
for the appellants.

Ms. Geeta Sharma, DAG, Haryana.

Mr. Namish Sodhi, Advocate
for the complainant(s).

HARPREET SINGH BRAR, J. (ORAL)

1. Present appeal has been preferred against the judgment of conviction dated 04.02.2003 and the order of sentence dated 07.02.2003 passed by learned Additional Sessions Judge (Fast Track Court), Bhiwani, in FIR No.308 dated 12.10.1997 under Sections 148, 325, 307, 149 of the Indian Penal Code (for short 'IPC'), registered at Police Station City Dadri, vide which the appellants were convicted under Sections 148, 323, 325,



307 read with Section 149 of IPC and ordered to undergo sentence rigorous imprisonment for a maximum period of 06 years and to fine of Rs.500/- each along with default mechanism.

2. Vide order dated 10.05.2024, present appeal qua appellant No.1 Sonu, appellant No.4 Umed Singh and appellant No.8 Gugi @ Leela stands abated.

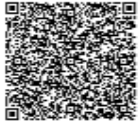
3. It is pertinent to mention here that during pendency of the present appeal, an application under Section 482 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking quashing of FIR No.308 dated 12.10.1997 under Sections 148, 323, 325, 307 of IPC (Section 323 of IPC added later on), registered at Police Station City Dadri and further for setting aside the judgment of conviction dated 04.02.2003 and the order of sentence dated 07.02.2003 in view of the compromise dated 09.05.2024 (Annexure A-1).

4. In brief, the case of the prosecution is that on 11.10.1997, on receiving the medical *ruqa* from General Hospital, Charkhi Dadri regarding admission of injured Lagad @ Nagar son of Dharam Singh, the police party visited the hospital and moved an application before the Medical Officer seeking his opinion as to whether the injured was fit to make the statement. The doctor opined the injured unfit to make the statement. Again on 12.10.1997, medical *ruqa* was received in the police station regarding injured Hari Singh son of Dharam Singh and on receiving the same, ASI

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Dalip Singh went to General Hospital, Charkhi Dadri for recording statement of injured Hari Singh. The doctor opined him fit to make the statement and in his statement recorded by the police, injured Hari Singh stated that he was doing the work of labour. On 11.10.1997, at about 08.00 a.m., his brother had gone for purchasing *biri* from the shop, where an altercation took place between Umed Singh and Pappu. He tried to pacify them. After some time, when he returned home, Subhash son of Shirya, Sonu son of Ram Kumar, Raj Singh son of Neka Ram, Umed Singh son of Bani Singh, wife and mother of Umed met him and they, with a common intention to teach a lesson for using filthy language to Pappu and Umed, gathered there. All the accused persons attacked him and his brother Lagad. Accused Subhash gave a lathi blow on the head of his brother Lagad and accused Sonu and Raju gave lathi blows on his right leg and arms. When complainant Hari Singh tried to save his brother Lagad, remaining accused had thrown stones upon him. Due to lathi blow, his brother Lagad became unconscious on the spot. The complainant raised noise and upon hearing the noise, his sister Chameli and his younger brother Kaliya reached at the spot and saved them from the clutches of the accused. Thereafter, all the accused persons ran away from the spot. The complainant sustained injuries on his forehead, left side of the chest and on the leg. His brother Lagad was referred to PGI, Rohtak. Some injuries were also inflicted by the complainant party to the accused party in their self-



defence. On this statement, formal FIR was registered.

5. After completion of the investigation, challan against the accused persons before learned Illaqa Magistrate, who, after completing the formalities, committed to the Court of Sessions for trial. On finding a prima facie case, on 14.09.1998, the accused were charged under Sections 148, 323, 325, 307 read with Section 149 of IPC, to which they pleaded not guilty and claimed trial.

6. In support of its case, the prosecution examined as many as 13 witnesses i.e. PW1 Langad, PW2 Kaliya, PW3 ASI Ram Kumar, PW4 Constable Veer Shakti Singh, PW5 Dilbag Singh, PW6 Constable Sanwat Singh, PW7 Dr. Sushil Mangla, PW8 Hari Ram, PW9 Dr. U.S. Disodia, PW10 ASI Dalip Singh, PW11 Dr. Jatin Dhingra, PW12 Dr. Gopal Kishore, PW13 Dr. U.S. Disodia and also tendered into evidence Ex.PA, Ex.PB, Ex.PC, Ex.PD, Ex.PE, Ex.PF, Ex.PF/1, Ex.PG, Ex.PG/1, Ex.PH, Ex.PH/1, Ex.PI, Ex.PJ, Ex.PK, Ex.PL, Ex.PM, Ex.PO, Ex.PP, Ex.PQ, Ex.PQ/1 and closed its evidence. On closure of evidence by the prosecution, all the incriminating circumstances were put to the accused under Section 313 Cr.P.C, who denied all the allegations and claimed innocence. In defence, the accused did not lead any evidence.

7. After considering all the material available on record, learned trial Court convicted and sentenced the appellants as stated above.

8. Learned counsel for the appellants submits that instant appeal

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was admitted on 27.02.2003 and sentence of appellants No.6 to 8 was suspended vide order 16.03.2004 passed by this Court and sentence of appellants No.1 to 5 was suspended vide order dated 29.11.2004 passed by this Court. He further submits that during pendency of the appeal, a compromise has been effected amongst complainant Ram Chander @ Langad @ Nagar and legal heirs of complainant Hari Ram @ Hari Singh and appellants No.2, 3, 5, 6 & 7 with the intervention of the respectable persons of the area and the complainant/LRs of the complainant have no objection if appellants No.2, 3, 5, 6 & 7 are acquitted. He has also submitted that the parties to the dispute are residing in the vicinity and since the alleged incident took place in the year 1997, no such conflict has occurred between them and now they are living in peace and harmony. It is in this background that the application under Section 482 Cr.P.C. has been moved by appellants No.2, 3, 5, 6 & 7 for compounding of the offences on the basis of compromise arrived at between the parties vide compromise deed dated 09.05.2024, which has been attached as Annexure A-1 along with the said application. Therefore, learned counsel on behalf of appellants No.2, 3, 5, 6 & 7 has restricted his argument to the extent that the sentence imposed upon the said appellants by the trial Court may be reduced to the period already undergone by them. In support of his contention, he relies upon the judgment passed by the Hon'ble Supreme Court in ***Ramgopal and another Vs. State of Madhya Pradesh, 2021 (4)***



RCR (Criminal) 322.

9. Learned counsel appearing for the complainant/LRs of the complainant submits that the compromise has been effected between the parties without any undue pressure or coercion and the complainant/LRs of the complainant have no objection in case appellants No.2, 3, 5, 6 & 7 are acquitted or the sentence imposed upon them is reduced to the sentence already undergone by them.

10. Learned State counsel has not controverted to the factum of compromise arrived at between the parties but raised objection to the prayer made by appellants No.2, 3, 5, 6 & 7 for compounding of offences, while arguing that the offence committed by the said appellants invokes Section 307 of IPC, which is non-compoundable in nature.

11. I have heard learned counsel for the parties and perused the record of the case with their able assistance.

12. Undisputedly, all the appellants were convicted under Sections 148, 323, 325, 307 read with Section 149 of IPC vide judgment dated 04.02.2003. It is also not in dispute that offence committed under Section 307 is non-compoundable. However, in numerous pronouncements of the Hon'ble Supreme Court as well as of various High Courts including this Court, it has been held that High Court has the inherent power to quash the criminal proceedings, even in those cases, when offences committed are not compoundable, where the parties have buried the hatchet and decided to



live a life in peace and harmony, however, with a caveat to exercise the said power sparingly and cautiously. The power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code of Criminal Procedure, 1973. The inherent powers vested in the High Court has to be exercised with caution in order to secure the ends of justice and prevent abuse of the process of any court. The cases, where such power to quash the criminal proceeding or complaint or FIR may be exercised after the offender and victim have settled their dispute, would depend on facts and circumstances of each case but this power is certainly not to be exercised for the offences under the special statutes like the Prevention of Corruption Act or the heinous and in cases of serious offences like murder, rape, dacoity etc. which have a serious impact on the society at large.

13. A three Judges Bench of Hon'ble Supreme Court in ***Gian Singh Vs. State of Punjab, (2012) 10 SCC 303*** speaking through Justice R.M. Lodha has held 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 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

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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 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.”

14. A two Judges Bench of Hon’ble Supreme Court in ***Ramgopal***’s case (*supra*), speaking through Justice Surya Kant, has held that non-compoundable criminal cases of predominantly private nature can be quashed under Section 482 Cr.P.C. even if compromise is reached after conviction. The relevant parts of the said judgment are reproduced as under:-

“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 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

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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.

20. Having appraised the afore-stated para-meters 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 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

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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 decided 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 un-effected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.”*

15. A Larger Bench of five Judges of this Court in ***Kulwinder Singh and others Vs. State of Punjab and another, 2007 (3) RCR (Criminal) 1052*** speaking through Justice Vijender Jain, CJ has held as under:-

“27. 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

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power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. 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.

28. 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 a 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.

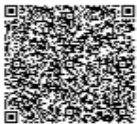
29. The only inevitable conclusion from the above discussion is that there is no statutory bar under the Criminal Procedure Code which can affect the inherent power of this Court under Section 482. Further, the same cannot be limited to matrimonial cases alone and the Court has the wide power to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 of the Cr.P.C., in order to prevent the abuse of law and to secure the ends of justice.



30. 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 para-meters 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 Cr.P.C. 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 a 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 ever-lasting 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.”

16. A two Judges Bench of the Hon’ble Supreme Court in ***Ishwar Singh Vs. State of M.P., (2008) 15 SCC 667*** speaking through Justice C.K. Thakker has held as under:-

“12. Now, it cannot be gainsaid that an offence punishable under Section 307 IPC is not a compoundable offence. Section 320 of the Code of Criminal Procedure, 1973 expressly states that no offence shall be compounded if it is not compoundable under the Code. At the same time, however, while dealing with such matters, this Court may take into account a relevant and important consideration about compromise between the



parties for the purpose of reduction of sentence.

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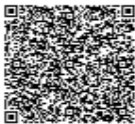
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17. For the foregoing reasons, the appeal deserves to be partly allowed and is accordingly allowed by maintaining the conviction recorded by the trial court and confirmed by the appellate court but by reducing the sentence already undergone by the appellant. The sentence of payment of fine is not disturbed. If the appellant has not paid the amount of fine, he will pay such amount within four weeks from today.”

17. In ***Jetha Ram and others Vs. State of Rajasthan, (2006) 9 SCC 255***, a two Judges Bench of the Hon’ble Supreme Court, while taking into account the factum of compromise arrived at between the parties, reduced the sentence imposed on the appellant-accused to that already undergone, though the offences were not compoundable. Similarly, in judgments rendered by two Judge Benches of the Hon’ble Supreme Court in ***Badrilal Vs. State of Madhya Pradesh, (2005) 7 SCC 55*** and ***Pappu and others Vs. State of Punjab, 2000 AIR (SC) 3633***, it has been held that in case of conviction under Section 307/34 of IPC, sentence can be reduced to the period already undergone on the basis of compromise.

18. In the present case, there was an old enmity between the complainant(s) and the accused persons. On 12.10.1997, FIR (*supra*) was registered against the appellants under Sections 148, 325, 307, 149 of IPC at Police Station City Dadri at the instance of the complainant alleging that the appellants caused injuries to the complainant(s) and therefore, in order

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to settle their score with the complainant (s), the appellants caused injuries to the complainant(s) when he was admitted in the hospital.

19. As per the custody certificates of appellants No.2, 3, 5, 6 & 7 available on record, actual sentence undergone by them is tabulated as under:-

Name of the appellant	Actual sentence undergone
Appellant No.2 Subhash @ Sobha	01 year, 09 months and 21 days
Appellant No.3 Nawal @ Raj	02 years, 03 months and 28 days
Appellant No.5 Pappu	01 year, 11 months and 10 days
Appellant No.6 Asha	01 year, 04 months and 28 days
Appellant No.7 Babita	01 year, 06 months and 05 days

20. During pendency of the instant appeal, a compromise has been effected between the complainant(s) and the accused persons, wherein it has been stated that the FIR in question was lodged on account of a sudden dispute arose between both the parties and the complainant/LRs of the complainant have no objection in case appellants No.2, 3, 5, 6 & 7 are acquitted. It has also been stated therein that the compromise has been reduced into writing with the consent of both the parties and without any undue pressure or coercion. Both the parties are residing in the same vicinity and the incident was occurred way back in the year 1997 and after their conviction, no untoward incident transpired between them, therefore, keeping in view the fact that a compromise has been arrived at between the parties in order to make an endeavour to bury the hatchet and maintain

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peace, harmony and brotherhood amongst themselves, ends of justice would be served if sentence of appellants No.2, 3, 5, 6 & 7 is reduced to the period already undergone by them.

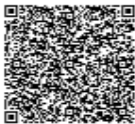
21. In view of the aforesaid facts and circumstances and keeping in view the limited prayer made by learned counsel appearing for appellants No.2, 3, 5, 6 & 7 qua modification of the order of sentence dated 07.02.2003 to the extent of sentence already undergone by them, application moved in the criminal appeal by applicants-appellants No.2, 3, 5, 6 & 7 under Section 482 Cr.P.C. seeking compounding of offences is allowed. Therefore, while upholding the judgment of conviction dated 04.02.2003 passed by Additional Sessions Judge (Fast Track Court), Bhiwani and order of sentence dated 18.02.2014, the order of sentence dated 07.02.2003 is modified to the extent that the sentence awarded by learned trial Court to appellants No.2, 3, 5, 6 & 7 is reduced to the period already undergone by them. However, the sentence qua fine is upheld. The fine shall be deposited within a period of two months before learned trial Court, failing which the appeal shall be deemed to be dismissed without any further orders.

22. Consequently, the appeal stands disposed of in above terms.

23. Bail/surety bonds of appellants No.2, 3, 5, 6 & 7, if any, shall stand discharged.

24. All the pending miscellaneous application(s), if any, shall also

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stand disposed of.

25. The case property, if any, may be dealt with as per rules after expiry of period of limitation for filing the appeal(s). Record of the case be sent back to the Court below.

30.05.2024
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable:	Yes/No