



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-2426-SB-2012 (O&M)
DECIDED ON: 20.09.2024

GURMAIL SINGH @ BHOLA AND ANOTHER

.....APPELLANTS

VERSUS

STATE OF PUNJAB & ANOTHER

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL.

Present: Mr. Basant Sharma, Advocate for
Mr. D.S. Malwai, Advocate
for the appellants.

Mr. Jasjit Singh Rattu, DAG, Punjab.

Mr. H.P. Singh, Advocate for
Mr. J.S. Bains, Advocate
for respondent No.2.

SANDEEP MOUDGIL, J

1. The present appeal has been preferred against judgment of conviction and order of sentence dated 17.08.2012 passed by Additional Sessions Judge, Sangrur whereby, the appellants have been sentenced as under:-

Name of the accused	Under Section	Sentence
Gurmail Singh @ Bhola	308 IPC	RI for a period of 5 years and to pay a fine of Rs.10,000/- (Rupees ten thousands); in default of payment of fine, to further undergo RI for a period of six months.
	323/34 IPC	RI for a period of three months.
Harpreet Singh @ Gupreet Singh	308/34 IPC	RI for a period of 4 years and to pay a fine of Rs.5000/- (Rupees five thousands); in default of payment of fine, to further undergo RI for a period of three months.
	323 IPC	RI for a period of six months.

2. The petitioners and the victims have entered into an out of Court settlement, which has reduced into writing vide compromise deed dated 29.07.2016. Copy thereof, has been attached with application bearing No. CRM-3657-2020, as Annexure A-2. Another application i.e. CRM-3658-2020 has been filed seeking permission to compound the offence in view of compromise effected between the parties.

3. It is worthwhile to note here that appellant No.1-Gurmail Singh @ Bhola has died on 01.07.2019, as is evident from the death certificate annexed with the application i.e. CRM-3657-2020, as Annexure A-1. Hence, the present appeal qua appellant No.1-Gurmail Singh @ Bhola stands abated.

4. Vide orders dated 27.05.2024 and 31.07.2024, parties were directed to appear before the Illaqa Magistrate/trial Court for recording of their statements with regard to the compromise and report was called for. As per report dated 05.08.2024 of Judicial Magistrate Ist Class, Dhuri, the parties have settled their dispute by way of an amicable settlement/agreement and the same appears to be genuine, without any pressure, coercion or fear.

ANALYSIS & REASONING:

5. The accused and the private respondent(s) have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned Court. A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means. The victim has willingly consented to the nullification of criminal proceedings. There is no objection from the private respondent in case present FIR and consequent proceedings are quashed.

In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or

lead to ill will. The pendency of trial affects career and happiness. There is nothing on the record to *prima facie* consider the accused as an unscrupulous, incorrigible, and professional offender. The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, and society. The exercise of the inherent power for quashing the conviction, sentence and all previous proceedings are justified to secure the ends of justice.

6. In “**Ramji Lal v. State of Haryana**”, (1983) 1 SCC 368, the Apex Court, in a matter arising against the conviction under section 325 IPC, held as under:-

“[5]. All the offences for which the appellants are convicted are compoundable and the compromise can be entered into with the permission of the court. Looking to the chastened attitude of the accused and the commendable attitude of the injured complainant, in order to restore harmony in the society, we accept the compromise. We grant permission to enter into the compromise and accept the same. We accordingly allow the appeal and set aside the conviction and sentence imposed on both the appellants. If they are on bail, their bail-bonds will be cancelled. If they are in jail, they will be released from the jail forthwith.”

7. In “**Mohd. Rafi v. State of U.P.**”, 1998(2) R.C.R.(Criminal) 455, the Supreme Court, the convict had gone to Hon’ble Supreme Court against his conviction by the trial Court under Sections 323 and 325 of IPC, which was upheld by Sessions and High Court. After that, the convict and the victim entered into an out-of-court compromise. The Apex Court analyzed the affidavits of the parties filed in support of the compromise and observed that parties had willingly and voluntarily settled the matter. To maintain good relations, the Court granted permission to them to compound the said offenses and order the acquittal.

8. In “**M.D. Balal Mian v. State of Bihar**”, 2001 AIR (SCW) 5190, out of three convicts, one was convicted under Section 376 IPC, and the other two were

convicted only under Sections 325 & 323 of IPC. After the High Court confirmed the conviction and sentence, all three convicts approached the Supreme Court. Although the Supreme Court did not find any scope for granting special leave by the convict challenging his conviction under section 376 IPC, however, granted the other permission to the other two convicts to compound the offences under Section 320 (8) of the Criminal Procedure Code and acquitted both of them.

9. In “**Ramachandra Singh v. State of Bihar**”, 2003(10) SCC 234, the Supreme Court has held as under:-

“[5]. We have heard learned counsel for the appellants and the state and taken into, consideration the fact and circumstances of the case. In view of the compromise it appears that grievance, if any, of the complainant Kamlesh Kumari Devi is over. Indeed in view of the compromise the accused appellants stand acquitted of the offence under Section 323 Indian Penal Code. In such circumstances the sentence passed by the trial Court and maintained by the High Court deserves to be modified so far as offence under Section 498A Indian Penal Code is concerned.

[6]. The appeal is partly allowed. The conviction of appellant Nos. 1 and 2 under Section 498A Indian Penal Code is maintained, but the sentence of imprisonment passed on them for offence under Section 498-A is reduced to the period already undergone. In so far as appellant No. 3 is concerned, in our opinion, it will meet the ends of justice if he is dealt with under Section 4 of the Probation of Offenders Act, 1958, and released on probation of good conduct. The sentence of imprisonment passed on appellant No. 3 is set aside and it is directed that he shall be released on his entering into a bond with one surety in an amount of Rs. 5000/- to appear before the trial Court and receive sentence on being called upon during a period of one year and in the meantime to keep the peace and be of good behaviour.”

10. In “**Khursheed and others v. State of U.P.**”, Appeal (crl.) 1302 of 2007, decided on 28-9-2007, the appellants were convicted by Trial Court under

sections 325, 323 read with 34 IPC. Their appeal against conviction was dismissed by the Sessions Court and revision petition was also dismissed by High Court. The convicts approached the Apex Court and the Court has held as under:-

[12]. An offence of causing grievous hurt punishable under Section 325 IPC is covered by sub-section (2) of Section 320 of the Code. It is thus clear that an offence punishable under Section 325 IPC is also compounded with the permission of the Court.

[13]. The parties have compounded the offences. As stated in the compromise deed, Gurfan Ahmad, complainant and his mother Kulsoom @ Bhoori (injured) did not want any action against the appellants (accused). The parties are neighbours, their houses are situated adjacent to each other and they have been living peacefully for last many years and there is no dispute among them. It is further stated that to continue sweet relationship and harmony, complainant side does not want to take any action against the accused. A prayer is, therefore, made to accept the compromise.

[14]. On the facts and in the circumstances of the case, and considering the Deed of Compromise and having heard learned counsel for the parties, in our opinion, ends of justice would be met if we grant necessary permission for compounding an offence punishable under Section 325 read with Section 34 IPC as required by sub-section (2) of Section 320 of the Code. The offence punishable under Section 323 IPC has already been compounded by the parties.

[15]. Sub-section (8) of Section 320 states that the compounding of offence under the section shall have an effect of acquittal of the accused with whom the offence has been compounded. The resultant effect of compounding of offences would be that the accused should be acquitted. In other words, once the offences have been compounded and the requisite permission is granted by the Court, the accused must be acquitted.

11. In “**Manoj &Anr. v. State of Madhya Pradesh**”, Cr. A No. 1530 of 2008, the Supreme Court, based on compromise, accepted the compounding of the offence under section 324 IPC and acquitted the appellants.

12. In “*Sube Singh v. State of Haryana*”, 2013 (4) RCR (Cri) 102, a Division Bench of this Court has held as under:-

“[17]. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.

[21]. In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No. 2) have also supported the amicable settlement, 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 Criminal Procedure Code 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.”

DECISION:

13. In the entirety of the case and judicial precedents, I am of the considered opinion that the continuation of these proceedings will not serve any fruitful purpose whatsoever, hence, FIR No. 132, dated 16.10.2010, under Sections 308, 325, 323 and 34 IPC, registered at Police Station Sadar, Dhuri, District Sangrur is hereby quashed and the judgment of conviction and order of sentence dated 17.08.2012 passed by Additional Sessions Judge, Sangrur, is set aside qua appellant

No.2, on the basis of compromise deed dated 27.07.2016 (Annexure A-2). However, the appellant No.2 is directed to deposit the fine, as imposed by learned trial Court vide its order dated 17.08.2012. The bail bonds of appellant No.2 accordingly discharged. All pending application(s), if any, stand closed.

14. Since the parties have settled their disputes, this Court allows the parties to compound the offence, set aside the judgment of the trial court and acquit the appellant No.2 of the charges against him.

15 The present appeal as well as applications seeking compounding of offences i.e. CRM-3658-2020 are, accordingly, allowed in the aforesaid terms.

(SANDEEP MOUDGIL)
JUDGE

20.09.2024

sham

Whether speaking/reasoned Yes/No

Whether reportable Yes/No