

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

789-1

CRA-S-2037-SB-2015 (O & M)
Decided On:19.09.2024

NARESH AND ANOTHER

...Appellants

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. Vicky Sharma, Advocate with
K.S. Dhaliwal, Advocate for appellant No.2.
Mr. Vikas Bhardwaj, AAG, Haryana.
Mr. Gulshan Mehta, Advocate for respondent no.2.

HARPREET SINGH BRAR, J.

1. Present appeal has been preferred against the judgment of conviction dated 03.04.2015 and order of sentence dated 04.04.2015 passed by learned Additional Sessions Judge, Hisar in FIR No. 49 dated 26.01.2014 under Sections 354, 323, 506, 316 and 34 of the Indian Penal Code (for short ‘IPC’), registered at Police Station Barwala, vide which both the appellants were convicted under Sections 354 and 325 read with Section 34 of IPC and sentenced in the following manner: -

SECTION	SENTENCE
354 IPC	Rigorous imprisonment for 1 year & fine of Rs.1,000/- each. In case of default, further R.I. for 15 days.
325 IPC	Rigorous imprisonment for 2 years & fine of Rs.2,000/- each. In case of default, further R.I. for 30



	days.
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2. As per record, appellant no.1 has passed away during the pendency of the present appeal. Therefore, proceedings qua him stand abated.
3. In brief, the case of the prosecution is that on 26.01.2014, the complainant/victim moved a complaint before the concerned police, wherein, it was alleged that on the aforesaid day, the appellants/accused tried to outrage her modesty when she went to throw out cow dung in her plot. When she tried to resist, the accused beat her and tore her clothes with intention to sexually assault her. This complaint culminated into FIR (supra). In addition, the complainant made a supplementary statement on 31.01.2014, wherein, she stated that the accused also gave leg blows on her stomach which led to abortion. After this, Section 316 IPC was added in the FIR (supra).
4. After completing the necessary investigation and due procedure, the jurisdictional police submitted the final report before the learned trial Court. On finding a prima facie case against the accused, the learned trial Court framed charges against them for commission of offences punishable under Sections 354, 354-B, 323 and 313 read with Section 34 of IPC, to which they pleaded innocence and claimed trial.
5. In support of its case, the prosecution examined as many as 10 witnesses. On closure of evidence by the prosecution, all the incriminating circumstances were put to the accused under Section 313 Cr.P.C, who denied the allegations and claimed innocence. In their defence, the accused tendered

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statement (Ex.D1) dated 26.01.2014 of Ashwani Kumar (husband of complainant) recorded under Section 161 Cr.P.C. After considering all the material available on record, learned trial Court convicted and sentenced the appellants as stated above.

6. Learned counsel for appellant No.2 submits that instant appeal was admitted on 01.05.2015 and his sentence was suspended vide the order passed by this Court on the same date. He further submits that during pendency of the appeal, a compromise has been effected between the parties to this case the complainant has no objection if the appellant is acquitted. 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.***

7. Learned counsel appearing for the complainant/respondent no.2 submits that the compromise has been effected between the parties without any undue pressure or coercion and the complainant has no objection in case appellant(s) are acquitted or the sentence imposed upon them is reduced to the sentence already undergone by them.

8. 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 for compounding of offences, while arguing that the offence committed by the said appellants invokes Section 354 of IPC, which is non-compoundable in nature.

9. I have heard learned counsel for the parties and perused the

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record of the case with their able assistance.

10. Undisputedly, all the appellants were convicted under Sections 354 and 325 of IPC vide judgment dated 03.04.2015. It is also not in dispute that offence committed under Section 354 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, but 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.



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11. 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 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.”

12. 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 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 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.”

13. 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 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 everlasting 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.”

14. Reverting back to the case at hand, this Court directed the parties to appear before the learned trial Court within two weeks from 14.08.2024 and get their statements recorded qua the compromise. As per the report dated 04.09.2024, received from the learned Illaqa Magistrate, the veracity of the compromise (Annexure A-2) has been established after recording statements of the concerned parties. Furthermore, no P.O. proceedings are pending against appellant No.2. It transpires that the parties, who have been litigating for the past 10 years, have genuinely buried the hatchet and decided to move on with their lives. Keeping in view the ratio of law laid down in **Ramgopal** (*supra*) & **Kulwinder Singh** (*supra*), invoking the inherent powers of this Court would be in greater good of the society if the dispute in the present case is permitted to be compromised and the same is put to rest once and for all. Therefore, it is a considered opinion of this Court that ends of justice would be secured if the present appeal is allowed.

15. In view of the aforesaid facts and circumstances, the present appeal is allowed and consequently, judgment of conviction dated

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03.04.2015 and order of sentence dated 04.04.2015 passed by learned Additional Sessions Judge, Hisar, are hereby set aside. Accused is acquitted accordingly.

16. Bail/surety bonds, if any, shall also stand discharged.
17. Pending miscellaneous application(s), if any, shall also stand disposed of.

19.09.2024
manisha

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No