

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR No.3785 of 2016

Reserved on: 09.08.2024
Pronounced on: 30.08.2024

Bir Singh & another ...Petitioner(s)

Vs.

State of Haryana ...Respondent

CRR No.3903 of 2016

Sehaj Ram & another ... Petitioner(s)

Vs.

State of Haryana ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present: Mr. Naresh Prabhakar, Advocate
for the petitioner (In CRR No.3785 of 2016).
Mr. Jagjot Singh, Advocate
for the petitioner (In CRR No.3903 of 2016).

Mr. Viney Phogat, D.A.G., Haryana.

Ms. Tanika Goyal, Advocate for
Mr. Vipul Sharma, Advocate
for respondent no.2.

ANOOP CHITKARA J.

FIR No.	Dated	Police Station	Sections
426	1.10.2011	Camp Palwal	323, 325, read with Section 34 IPC

Trial Court:

Case No.	CHI/0000569/2013. CRI. Case RBT No.493/2011 Date of Decision: 28.05.2015
Names of accused/ convict	1. Sehaj Ram; 2. Bir Singh; 3. Savliya; 4. Ravinder @ Bhura

Conviction under sections	323/326/34 IPC
Sentence imposed	RI for maximum period of 3 years and fine of 2,000/-

Appellate Court:

Criminal Appeal(s)	CRA/144/2015 Date of Decision: 17.9.2016
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1. This order shall dispose of two revision petitions i.e. CRR Nos.3785 and 3903 of 2016, as the same have arisen out of common FIR and all the petitioners in both revision petitions have been convicted and sentenced by common judgment of conviction and order of sentence. However, for brevity, facts have been noticed from CRR-3785-2016.
2. The petitioner-convicts, who were convicted and sentenced, as mentioned above and the judgment of conviction and order of sentence was affirmed by the Appellate Court, have come up before this Court by filing the present revision petition(s) seeking setting aside of his conviction and order of sentence.
3. During the pendency of this revision petition(s), the petitioners-convicts settled the matter with the complainant/victim and on their joint request, the parties were directed to appear before the concerned Trial Court/Illaq Magistrate/Duty Magistrate for getting their statements recorded with regard to the compromise so arrived at. As per the report of the concerned Court, both the parties settled their dispute amicably and the complainant - Mahender Singh, who is the sole victim/aggrieved person stated that he has no objection in case the petitioner-convicts are acquitted of the charge levelled against them and judgment of conviction and order of sentence are set aside.
4. Counsel for the petitioners/convicts as well as complainant-respondent no.2 stated, on instructions, that they have compromised the matter, and counsel for respondent No.2, on instructions, stated that he would have no objection if based on compromise, the revision petition is allowed.
5. In the present case, there are four accused who stands convicted and there is only one complainant/victim, which indicates that the conviction and acquittal would depend upon the evidence and its appreciation against the sole witness/complainant, who has already effected a compromise with the petitioners-convicts. In these circumstances, if this Court does not interject and disrupt criminal proceedings *qua* the petitioners-convict, it would, on the face of it, be violative of Article 21 of the Constitution of India, which, in addition to life, also guarantees liberty. A pragmatic approach is whenever a matter is compromised with of the convicts.

6. In the present case, the offence under section 326 of Indian Penal Code, 1860 (IPC) is not compoundable under Section 320 of Code of Criminal Procedure, 1973 (CrPC). However, in the facts and circumstances peculiar to this case, the prosecution *qua* the non-compoundable offences can be closed after conviction by setting aside the judgment of conviction and order of sentence and consequent proceedings, taking into account the fact that the parties have buried their hatchets, settling the dispute, this Court should also step forward by closing this continuing cause of bitterness.

7. It would be relevant to refer to the judicial precedents in which the convictions were set aside based on the compromise.:

a). In Ram Prasad and Another v. State of Uttar Pradesh, Cr.A Nos. 308-309 of 1980, decided on April 21, 1980, Hon'ble Supreme Court converted the conviction from 307 IPC to 324 IPC and after that based on compromise, accepted the compounding of offence under section 324 IPC and acquitted the appellants.

b). In Ramji Lal v. State of Haryana, (1983) 1 SCC 368, Hon'ble Supreme Court, in a matter arising against the conviction under section 325 IPC, held, [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.

c). In Mohd. Rafi v. State of U.P., 1998(2) R.C.R.(Criminal) 455, 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. Hon'ble Supreme Court analyzed the parties' affidavits filed in support of the compromise and observed that parties had willingly and voluntarily settled the matter. To maintain good relations, Hon'ble Supreme Court granted permission to them to compound the said offenses and order the acquittal.

d). In *Parameswari v. Vennila*, (2000) 10 SCC 348, the appellants before Hon'ble Supreme Court had been convicted under Section 494 read with Section 109 of IPC. After that, they arrived at a settlement with the complainant, in the presence of panchayatdars of their village, and placed on record the duly signed compromise, and parties filed a joint application for permission to compound the offences. While observing that the offence involved was compoundable with the wife's consent and permission of the Court, Hon'ble Supreme Court granted permission to compound the offence, and resultantly the appellants stood acquitted of the offence for which they have been held guilty.

e). 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 Hon'ble Supreme Court. Although Hon'ble 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.

f). In *Vuyyuru Ramachandra Rao v. State of Andhra Pradesh*, 2001 AIR (SCW) 2396, the appellant had approached the Hon'ble Supreme Court against upholding the conviction under section 354 IPC. The victim of molestation came to terms with the convict and applied to compound the offence. Hon'ble Supreme Court allowed such application for compounding and resultantly acquitted the appellant under Section 320 (8) of the Criminal Procedure Code.

g). In *Ramachandra Singh v. State of Bihar*, 2003(10) SCC 234, Hon'ble Supreme Court holds,

[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.

h). In K. Kandasamy v. K.P.M.V.P. Chandrasekaran, (2005) 4 SCC 349, based on the compromise, Hon'ble Supreme Court acquitted the appellants/convicts of the offence under Section 500 Indian Penal Code.

i). 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 Hon'ble Supreme Court held,

[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.

j). In Dr. Arvind Barsaul etc. v. State of Madhya Pradesh, (2008) 5 SCC 794, after the conviction under section 498-A IPC, the victim wife and the convict husband had compromised their disputes and sought setting aside of conviction based on the compromise. Hon'ble Supreme Court holds as follows,

[10]. We have heard learned counsel for the parties at length. The parties have compromised and the complainant Smt. Sadhna Madnawat categorically submitted that she does not want to prosecute the appellants. Even otherwise also, in the peculiar facts and circumstances of the case and in the interest of justice, in our opinion, continuation of criminal proceedings would be an abuse of the process of law. We, in exercise of our power under Article 142 of the Constitution, deem it proper to quash the criminal proceedings pending against the appellants emanating from the FIR lodged under section 498A Indian Penal Code. The appeal is accordingly disposed of.

k). In Manoj & Anr. v. State of Madhya Pradesh, Cr. A No. 1530 of 2008, Hon'ble Supreme Court, based on compromise, accepted the compounding of the offence under section 324 IPC and acquitted the appellants.

l). In Md. Abdul Sufan Laskar v. State of Assam, (2008) 9 SCC 333, based on a compromise, Hon'ble Supreme Court set aside the conviction and sentence under section 324 IPC. Hon'ble Supreme Court took similar views in Mathura Singh v. State of U.P., 2009(13) SCC 420 and in Gampa Govindu v. State of Andhra Pradesh thr. Public Prosecutor, 2008(sup) Cri. L.R. 440: Law Finder Doc Id # 521064.

m). In C.Muniappan Vs. State of Tamil Nadu, 2009 13 SCC 790, after the conviction and sentence under section 302 IPC, the deceased's family had compromised the matter with the accused. Rejecting the compromise, Hon'ble Supreme Court observed that once the parties have settled their

disputes, they could live in peace, but that cannot be a ground to pass a judgment of acquittal.

n). In *Gampa Govindu v. State of Andhra Pradesh*, Law Finder Doc Id # 521064; 2008(1) OriLR839, Hon'ble Supreme Court holds,

[3]. The Trial Court convicted the sole appellant under Section 326 of the Indian Penal Code [hereinafter referred to as "I.P.C."] and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of Rupees one thousand; in default, to undergo further simple imprisonment for a period of one month. On appeal being preferred, the Sessions Court confirmed the conviction and sentence. When the matter was taken to the High Court in revision, the conviction and sentence under Section 326 I.P.C. have been set aside and the appellant has been convicted under Section 324 I.P.C. and sentenced to undergo rigorous imprisonment for a period of one year. Before this Court, a joint petition of compromise has been filed wherein it has been stated that the parties have settled their disputes; as such, they be permitted to compound the offence. In our view, the prayer is just and must be granted. Accordingly, the criminal appeal is allowed and the conviction and sentence awarded against the appellant are set aside, in view of the compounding.

o). In *Hirabhai Jhaverbhai v. State of Gujarat*, (2010) 6 SCC 688, permitting the parties to compromise the conviction under section 324 IPC, Hon'ble Supreme Court holds, "The injured complainant and two other injured are permitted to compound the offence punishable under Section 324 Indian Penal Code. In view of sub-section (8) of Section 320 of the Code of Criminal Procedure, the composition of offence under section 324 Indian Penal Code shall have the effect of an acquittal of the appellant with whom the offence has been compounded."

p). In *Surat Singh v. State of Uttaranchal (Now Uttarakhand)*, 2012(12) SCC 772, Hon'ble Supreme Court, based on compromise, permitted the parties to compound their offences under section 354 and 506 IPC.

q). in *Jeetu Vs. State of Chhattisgarh*, 2013 11 SCC 489 it is the duty of the appellate Court to arrive at its own independent conclusion after examining the material on record. This exercise has however to be conducted after considering the material on record. There is no power conferred by the Code either on the appellate Court/revisional Court to acquit an accused convicted for a commission of a non-compoundable

offence only on the ground that compromise has been entered into between the convict and the informant/complainant.

r). In *Dasan v. State of Kerala*, **2014:INSC:54 [Para 10]**, (2014) 12 SCC 666, the Hon'ble Supreme Court converted the conviction from 326 IPC to 325 IPC and, based on compromise, accepted the compounding of the offence under section 325 IPC and acquitted the appellant.

s). In *Padmalayan v. Sarasan*, (2014) 13 SCC 798, Hon'ble Supreme Court permitted post-conviction compromise for offence under section 324 IPC.

t). In *Sathiyamoorthy v. State*, 2014(3) R.C.R.(Criminal) 867, after observing that after the compromise they have been staying peacefully in the village. It is in the interest of both sides to bury the hatchet and lead a peaceful life, Hon'ble Supreme Court holds,

[6]. Offences under Sections 341 and 325 are compoundable. In view of the settlement they can be permitted to be compounded. However, offences under Sections 148 and 149 of the IPC are not compoundable. Hence, permission to compound them cannot be granted. However, since the accused and the victim have entered into a compromise, we feel that it would be in the interest of both sides to reduce the sentence awarded to the accused under Sections 325 and 341 of the IPC to the sentence already undergone.

[7]. In *Ram Lal and anr. v. State of J & K*, 2000(1) R.C.R.(Criminal) 92 : (1999)2 SCC 213 the accused were convicted for offence under Section 326 of the IPC, which is non-compoundable. Looking to the fact that the parties had arrived at a settlement and victim had no grievance, this Court reduced the sentence for the offence under Section 326 to sentence already undergone by the appellants-accused. We are inclined to follow similar course.

8. In the result, the appeal is partly allowed. The offences under Sections 341 and 325 of the IPC, for which the appellants are convicted, are permitted to be compounded because they are compoundable. The appellants are acquitted of the said offences. The appellants are stated to have undergone more than six months imprisonment. So far as offences under Sections 148 and 149 of the IPC are concerned, the conviction of the appellants for the said offences is reduced to the sentence already undergone by them subject to the appellants paying L 30,000/- as compensation to victim-Murugesan. Compensation be paid within three months from the date of this judgment.

u). In Deva Ram v. State of Rajasthan, **2014:INSC:505 [Para 5]**, (2014) 13 SCC 275, the appellant was convicted by Trial Court under section 420 IPC. His appeal against conviction was dismissed by the Sessions Court and revision petition was also dismissed by High Court. The convict approached the Apex Court and Hon'ble Supreme Court held,

[5]. We are informed that out of two years imprisonment the appellant has undergone six months imprisonment. Offence under Section 420 of the IPC is compoundable with the permission of the court by the person who is cheated. Since the parties are related to each other and they have decided to accord a quietus to their disputes and live peacefully, we permit them to compound the offence. Hence, the offence under Section 420 of the IPC for which the appellant was convicted is compounded because it is compoundable with the permission of the court. The appellant is acquitted of the said charge.

v). In Ravinder Kaur v. Anil Kumar, **2015:INSC:301**, (2015) 8 SCC 286, Hon'ble Supreme Court, in a matter arising out of conviction, permitted the compounding of offence under section 494 IPC.

w). In Shankar Yadav v. State of Chhattisgarh, Cr.A 982 of 2017 Law Finder Doc Id # 8378562, Hon'ble Supreme Court while permitting post-conviction compromise, by holding the offence to fall under section 324 IPC, held,

[8]. Having regard to the facts and circumstances of the case, we see no reasons to refuse permission to the parties who have compromised the offences which were compoundable under the Code as it stood in 1998. If it is so, compounding can be permitted and the appellants-accused can be acquitted in view of Section 320 (8) of the Cr.P.C., which expressly enacts that where the composition of an offence under this section is recorded by the court, it shall have effect of an acquittal of the accused with whom the offence has been compounded. We order accordingly.

x). In Sube Singh v. State of Haryana, **2013:PHHC:026805-DB [Para 17, 21]**, 2013 (4) RCR (Cri) 102, a Division Bench of this Court holds,

[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.

8. Counsel for the petitioners-convicts states that petitioners-convicts have already undergone around 2½ months of sentence out of the total awarded sentence of 3 years and undertakes to pay the fine, if not already paid. Let the fine be deposited by 16.09.2024.
9. This Court has powers under Section 401 of the Code of Criminal Procedure to interfere in this kind of matter. In the entirety of the case and judicial precedents, the continuation of these proceedings *qua* the petitioners-convicts will not serve any fruitful purpose whatsoever. Thus, in view of the compromise, this is a fit case to disrupt the prosecution. Given the above, judgment of conviction and order of sentence *qua* the petitioners/convicts are set aside, and their bail bonds are discharged. However, the petitioners shall deposit the amount of fine, if not already deposited, by 16.09.2024, which shall be forfeited to the State.
10. The revision petitions are allowed. All pending application(s), if any, stand closed.

(ANOOP CHITKARA)
JUDGE

August 30, 2024
AK

Whether speaking/reasoned : Yes
Whether reportable : No