

Neutral Citation No.2024:PHHC:007228
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-34851 of 2023
Reserved on:11.01.2024
Pronounced on: 18.01.2024

Manjit Singh **...Petitioner**

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present:- Mr. Kuljit Kaur, Advocate for the petitioner.

Mr. Mohit Thakur, AAG, Punjab.

Ms. Vini Mahajan, Advocate for respondent No.2.

DEEPAK GUPTA, J. (Oral)

In the present petition filed under Section 482 Cr.P.C., petitioner has prayed for quashing DDR No.7 dated 25.11.2009 registered under Section 307 IPC and Sections 25/27 of the Arms Act in case FIR No.156 dated 15.11.2009 registered under Sections 382, 342, 353, 332, 353, 186, 148, 149 IPC at Police Station Bholath, District Kapurthala, Punjab and all the subsequent proceedings, on the basis of compromise deed dated 29.03.2023 (Annexure P.5).

2. Perusal of the entire paper book would reveal that FIR No.156 dated 15.11.2009 as above was lodged on the statement of Head Constable Daljit Singh, as per which he was on PCR duty on 14.11.2019 along with Constable Balwinder Singh standing on the minor bridge of Village Bagrian, when he received a call from MHC to the effect that in Village Fatehpur, Lachhman Singh etc., were quarreling with Manjit Singh and were asked to reach at the spot. He along with Constable Balwinder Singh reached Village Fatehpur at about 08:30 P.M., where Sabi son of Bawa Singh son of Lachhman Singh, Harbhajan Kaur wife of

Jagir Singh, Harjit Singh, Harpreet Singh sons of Jagir Singh, Piari wife of Bawa Ram along with 8-10 persons came there and on coming to know that they had come to help Manjit Singh, caught hold of them, torn their uniforms and gave them beatings. Sabi also snatched his Carbine and removed the turbans. They also entered the house of Manjit Singh and then Manjit Singh in his self defence, fired from his gun. It was also alleged that Sabi and others had dragged them and shut in a room and during this period, his gold chain was also snatched. On these allegations, FIR was registered. After completion of investigation, challan was presented against as many as 10 accused, who included Mohinder Pal Singh alias Sabi son of Bawa Singh.

3. The accused as above were sent to trial by committing the case to the Court of Sessions. Sessions case No.5 dated 02.02.2011 (Computer filing N: 6759/2.2.2011) was registered and after trial, all these accused including Mohinder Pal Singh alias Sabi were held to be guilty and convicted under Sections 148, 342 and 323 IPC (except accused Piar Kaur alias Piari & Harbhajan Kaur, who had died during proceedings and against whom proceedings stood abated). The convicts were sentenced separately vide judgment of conviction/ order of sentence dated 25.03.2014 by learned Additional Sessions Judge, Kapurthala.

4.1 On the other hand, giving a cross version, DDR No.7 in the afore-said FIR was lodged as a cross case on 15.11.2009, on the statement of Mohinder Pal Singh alias Sabi, as per which on 14.11.2009 at about 7:00/7:30 PM, after closing his medical store, he was on way to his house, when his uncle Manjit Singh started abusing him regarding

share in the property. It was alleged that Manjit Singh while standing inside the house, took out his rifle and fired a shot hitting him on the right side of his abdomen. On raising alarm by him, his brother and other family members reached there and got him admitted in the Civil Hospital. On this statement of Mohinder Singh, DDR. No.7 dated 25.11.2009 was registered under Section 307 IPC and Sections 25 and 27 of the Arms Act was registered. After completion of investigation, separate challan was filed.

4.2 Case was committed to the Court of Sessions and was registered as Sessions Case No.4 of 02.02.2011 (Computer filing N: 6760/2.2.2011), in which Manjit Singh faced trial and vide judgment dated 25.03.2014, he was held to be guilty and convicted under Section 307 IPC and Section 27 of the Arms Act. Said Manjit Singh (present petitioner), was sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of ₹10,000/- with default sentence for committing offence under Section 307 IPC. He was further sentenced to undergo rigorous imprisonment for a period of three years and fine of ₹3,000/- with default sentence for committing offence under Sections 27 of the Arms Act. Both the sentences were directed to run concurrently.

5. Against the afore-said conviction as recorded in Sessions Case No.4 of 2011, petitioner – Manjit Singh filed appeal bearing CRA-2147-SB of 2014, which was admitted by this Court vide order dated 16.05.2014. The recovery of fine was stayed on 15.09.2014. After the appellant – Manjit Singh had undergone actual sentence of 01 year 08 months and 11 days including remissions, his remaining sentence was

suspended vide order dated 27.01.2016.

6. In present petition filed by Manjit Singh i.e. convict-appellant, it is submitted that Mohinder Pal Singh, the complainant of DDR No.7, in which the petitioner has been convicted, has since expired on 25.11.2019, leaving behind his widow Smt. Poonam Rani as his only legal heir. It is pleaded further that matter has since been amicably settled between the petitioner and respondent No.2, i.e. Poonam Rani, wife of late Mohinder Pal Singh. Both of them belong to the same family. Compromise has been effected in order to maintain peace and harmony in the family. No grievance is left between the parties and so, continuation of the criminal proceedings will increase the inimical relations and so, in all the circumstances, DDR No.7 dated 25.11.2009 in FIR No.156 dated 15.11.2009 registered under Sections 382, 342, 353, 332, 353, 186, 148, 149 IPC at Police Station Bholath, District Kapurthala, Punjab and all the consequential proceedings including the conviction of the petitioner, be quashed.

7. Vide order dated 26.07.2023, both the parties were directed to appear before the learned Sessions Judge, Kapurthala for getting their statements recorded regarding the compromise. The Sessions Judge was also directed to report regarding the genuineness of the compromise, the number of accused involved; as to whether all the aggrieved parties were party to the compromise, that no accused was absconding and also enquire as to whether there are other legal heirs of the injured- deceased.

8. Pursuant to the afore-said order, report dated 21.09.2023 has been received from the Court of Sessions regarding the compromise by

both the sides. It is also reported that compromise is genuine, voluntarily and made out of free will of the parties.

9. In her statement, Smt. Poonam Rani, the widow of injured Mohinder Pal Singh (now deceased) has also stated that she has three children, all of whom are minor being in the age-group of 4-12 years and that her mother-in-law had already expired. It is further stated by her that compromise has been effected by her without any pressure or undue influence.

10. Learned counsel for respondent No.2 – complainant Mohinder Pal though his widow Poonam also appeared and conceded the factum of compromise and the statement of Smt. Poonam Rani recorded by the Court of Sessions.

11. Petitioner as well as respondent No.2 have made a joint prayer for quashing the entire proceedings of the DDR in question including the judgment of conviction.

12. However, learned State Counsel has objected to the quashing of the proceedings by submitting that after holding full fledged trial, the petitioner was found to be guilty and convicted under Section 307 IPC and Section 27 of the Arms Act; that the appeal is pending and so, in these circumstances, the proceedings should not be quashed.

13. I have considered the submissions of both the sides and have appraised the record.

14. The question as to whether the proceedings can be quashed/ compounded on the basis of compromise amongst the parties, once the matter has been considered after appreciation of evidence by the trial

Court and against which appeal is pending, was considered at depth by a co-ordinate Bench of this Court in ***CRA-S-394-SB-2006 (O&M) 'Dalbir vs State'***; and ***CRR No.1256 of 2006 (O&M) 'Jeet Singh vs State'***, both decided vide common order dated 11.04.2023. It was held as under:-

"24. Issue involved in the present case is that once matter has been considered after appreciation of evidence by the learned Trial Court and appeal against the same is pending before Appellate Court, whether proceedings can be quashed/compounded/finished on the basis of compromise amongst all the parties to lis.

25. The matter is no longer res integra. Hon'ble the Supreme Court in [Narinder Singh's](#) case (supra) has considered in detail the issue in hand as also inherent power of High Court under [Section 482](#) Cr.P.C. to quash criminal proceedings involving non-compoundable offences in view of compromise/settlement arrived at between the parties. In the said case, FIR was registered under [Sections 307, 324, 323](#) and [34](#) IPC. A petition under [Section 482](#) Cr.P.C. was filed before this Court seeking quashing of FIR on the basis of compromise entered into between the petitioners who were the accused in the FIR and the complainant. This Court refused to exercise its extraordinary discretion invoking the provisions of [Section 482](#) Cr.P.C. on the ground that four injuries were suffered by the complainant and as per the opinion of the doctor, Injury 3 was serious in nature.

26. After detailed discussion, in paragraph No. 29 of the judgment in [Narinder Singh's](#) case (supra), Hon'ble the Supreme Court laid down certain principles/guidelines for the High Court so as to give adequate treatment to the settlement between the parties while exercising power under [Section 482](#) Cr.P.C., while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings. Para 29 and 29.1 of [the said judgment](#), being relevant, are reproduced as under:-

"29. In view of the aforesaid discussion, we sum up and lay down the following principles by which the High Court would be guided in giving adequate treatment to the settlement between the parties and exercising its power under Section 482 of the Code while accepting the settlement and quashing the proceedings or refusing to accept the settlement with direction to continue with the criminal proceedings:

29.1. Power conferred under Section 482 of the Code is to be distinguished from the power which lies in the Court to compound the offences under Section 320 of the Code. No doubt, under Section 482 of the Code, the High Court has inherent power to quash the criminal proceedings even in those cases which are not compoundable, where the parties have settled the matter between themselves. However, this power is to be exercised sparingly and with caution."

27. In relation to the cases involving the offence punishable under [Section 307 IPC](#), in para No. 29.6 of the judgment, Hon'ble the Apex Court has held as under:-

29.6 Offences under [Section 307 IPC](#) would fall in the category of heinous and serious offences and therefore is to be generally treated as crime against the society and not against the individual alone. However, the High Court would not rest its decision merely because there is a mention of [Section 307 IPC](#) in the FIR or the charge is framed under this provision. It would be open to the High Court to examine as to whether incorporation of [Section 307 IPC](#) is there for the sake of it or the prosecution has collected sufficient evidence, which if proved, would lead to proving the charge under [Section 307 IPC](#). For this purpose, it would be open to the High Court to go by the nature of injury sustained, whether such injury is inflicted on the vital/delegate parts of the body, nature of weapons used etc. Medical report in respect of injuries suffered by the victim can generally be the guiding factor. On the basis of this prima facie analysis, the High Court can examine as to whether there is a strong possibility of conviction or the chances of conviction are remote and bleak. In the former case it can refuse to accept the settlement and quash the criminal proceedings whereas in the later case it would be permissible for the High Court to accept the plea compounding the offence based on complete settlement between the parties. At this stage, the Court can also be swayed by the fact that the settlement between the parties is going to result in harmony between them which may improve their future relationship. (emphasis added)

28. In the case in hand, initially FIR was lodged under [Sections 148, 307, 427, 149 IPC](#) and [Section 25](#) of the Arms Act. As already

noticed above, after analyzing the evidence, learned Trial Court came to the conclusion that ingredients constituting an offence under [Section 307](#) IPC are completely missing in the present case, therefore, all the accused stand acquitted for the said offence.

*The appellants were convicted and sentenced for the offences punishable under [Sections 148, 324/149 and 427/34](#) IPC only and acquitted under other charges framed against them. Furthermore, no appeal has been preferred by the State against the findings recorded by learned Trial Court qua [Section 307](#) IPC. Criminal revision petition filed by complainant - Jeet Singh, already stands disposed of "**as not pressed**", in view of compromise dated 04.04.2022 (Annexure A-1).*

29. *In **Narinder Singh's case (supra)**, their Lordships' of Hon'ble the Supreme Court also discussed the scope of Section 320 Cr.P.C. vis-a-vis powers of High Court in exercise of Section 482 Cr.P.C. and came to the conclusion that Section 320 Cr.P.C. deals with only "compoundable offences" within the statutory frame work and the extraordinary power is enjoyed upon a High Court under Section 482 Cr.P.C. In other words, powers under Section 482 Cr.P.C. are of larger scope than Section 320 Cr.P.C.*

30. *In the case of [Ramgopal and another \(supra\)](#), Hon'ble the Supreme Court has dealt with a situation where appeal under Sections 294, 323 and 326 read with 34 of [IPC](#) and [Section 3](#) of the Prevention of Atrocities (Scheduled Caste and Scheduled Tribes) Act, 1989, was pending and the concerned parties entered into compromise during pendency of such appeal. In para 13 of the judgment, Hon'ble the Supreme Court has made the following observations:*

"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 extra-ordinary power under [Section 482 Cr.P.C., 1973](#) 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. A restrictive construction of inherent powers under [Section 482 Cr.P.C., 1973](#) may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in [Narinder Singh & Ors. v. State of Punjab & Ors.](#), (2014) 6 SCC 466 and [Laxmi Narayan \(Supra\)](#)."

31. *From a bare perusal of the above, it is evident that broadly it was concluded by their Lordships' that touchstone for exercising the extra- ordinary power under [Section 482 Cr.P.C.](#) would be to secure the ends of justice and that a restrictive construction of inherent powers under [Section 482 Cr.P.C.](#) may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice.*

32. *Thus, it can be safely concluded that where offences are non-heinous or where the offences are pre-dominantly of a private nature, they can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction.*

33. *It has further been held in [Ramgopal's](#) case (supra) that the matters which can be categorized as personal in nature or in the matter in which the nature of injuries do not exhibit mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest, the Court can quash the FIR in view of the settlement arrived at amongst the parties. The observation of the Hon'ble Supreme Court is extracted 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."

34. The Full Bench of this Court in the matter of *Kulwinder Singh* (supra) has made the following observations:

"(28) To conclude, it can safely be said that there can never be any hard and fast category which can be prescribed to enable the Court to exercise its power under Section 482 of the Cr.P.C. The only principle that can be laid down is the one which has been incorporated in the Section itself, i.e., "to prevent abuse of the process of any Court" or "to secure the ends of justice".

(29) In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words:

The finest hour of justice arrives propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion."

(30) 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.

(31) No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

(32) 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 Cr.P.C. 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 Cr.P.C. 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.

(33) The only inevitable conclusion from the above discussion is that there is no statutory bar under the Cr.P.C. 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.

(34) The power under Section 482 of the Cr.P.C. 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."

35. After considering the aforementioned position of law as enumerated from the interpretation made by Hon'ble the Supreme Court, Full Bench of this Court and in totality of circumstances that compromise dated 04.04.2022 (Annexure A-1) between the parties has already been entered, nothing can be achieved by hearing the appeal on merits."

15. In view of the legal position as above, there can be no dispute that even in the cases, where offences are non-compoundable but are pre-dominantly of a private nature, the proceedings can be annulled, even if trial has already been concluded and even appeal has been dismissed against conviction.

16. In the present case, the petitioner i.e. accused Manjit Singh as well as complainant Mohinder Pal Singh (injured – now deceased) are members of the same family being uncle and nephew. Occurrence had taken place way back in 2009 i.e. more than 14 years back. Compromising the matter will help in harmonizing the relations between the parties. This Court should not create any hindrance to give effect to the compromise, which is found by the Court of Sessions to be voluntarily and without any pressure upon any of the parties.

17. Consequently, considering all the afore-said facts and circumstances, the present petition i.e. CRM-M-34851 of 2023 is accepted. DDR No.7 dated 25.11.2009 registered under Section 307 IPC and Sections 25/27 of the Arms Act in case FIR No.156 dated 15.11.2009 registered under Sections 382, 342, 353, 332, 353, 186, 148, 149 IPC at Police Station Bholath, District Kapurthala, Punjab and all the subsequent proceedings, on the basis of compromise deed dated 29.03.2023 (Annexure P.5) including the conviction and sentence recorded in Sessions Case No.4 of 2011 decided on 25.03.2014, are hereby quashed.

January 18, 2024

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(DEEPAK GUPTA)
JUDGE

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