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**THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-M No.26828 of 2024
Date of Decision: 01.05.2025**

Surjit Singh

..... Petitioner

Versus

Surjit Singh Thind and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Dr. Naresh Kaushik, Advocate
for the petitioner.

Mr. Nipun Bhardwaj, Advocate
for respondent No.1.

Ms. Simran Gorla, Asstt. A.G., Punjab
for respondent No.2-State.

RAJESH BHARDWAJ, J. (ORAL)

1. Present petition has been filed praying for quashing of proclamation dated 29.04.2024 (Annexure P-1) issued by the Court of learned Chief Judicial Magistrate, Jalandhar on arrest warrants dated 06.05.2024 in CRM No.42 of 2021 titled as 'State vs. Surjit Singh' by compounding of all criminal proceedings between parties. Further prayer has been made for setting aside the order of conviction and sentence of RI of 06 months and fine Rs.5000/- awarded by the learned Judicial Magistrate Ist Class, Jalandhar vide judgment dated 27.04.2002 (Annexure P-3) in a complaint case filed under Section 138 of NI Act



passed. The said decision of the learned Judicial Magistrate Ist Class, Jalandhar was upheld by the learned Additional Sessions Judge, Jalandhar while dismissing the appeal filed by the petitioner vide his judgment dated 17.05.2003 (Annexure P-4). Further the revision filed by the petitioner against the said order in the Hon'ble High Court was also dismissed vide judgment dated 15.02.2010. the prayer has been made to set aside all the orders awarding conviction and sentence to the petitioner keeping in view the compromise/affidavit dated 07.05.2024 (Annexure P-2).

2. Brief facts of the present case are that respondent No.1 filed a complaint bearing No.398/02 of 2000 dated 12.01.1998, under Section 138 of Negotiable Instruments Act, 1881 alleging the dishonor of cheque dated 20.10.1997 issued by the petitioner for Rs.2,25,000/-. In the said complaint, the petitioner was convicted and sentenced to undergo RI for 06 months along with fine Rs.5000/- by the learned Judicial Magistrate Ist Class, Jalandhar vide judgment dated 27.04.2002. Being aggrieved, the petitioner filed criminal appeal No.30 of 2002 and the same was dismissed by the learned Additional Sessions Judge, Jalandhar vide judgment dated 17.05.2003 confirming the order/judgment passed by the learned Judicial Magistrate Ist Class, Jalandhar. The petitioner further assailed both the judgments before this Court by way of filing CRR No.1181 of 2003, however the same was also dismissed by this Court vide order dated 15.02.2010. Thereafter Re-arrest warrant was issued for arrest of the petitioner and ultimately proclamation against the petitioner



was made. Now with the intervention of the respectables, the parties have entered into a compromise and decided to bury the hatchet. Hence being aggrieved the petitioner is before this Court by way of filing the present petition for quashing of proclamation order along with all consequent proceedings arising therefrom and also the order of conviction and sentence awarded to the petitioner by the learned Judicial Magistrate Ist Class, Jalandhar which was affirmed upto the High Court, on the basis of the compromise arrived at between the parties.

3. Learned counsel for the petitioner submits that prosecution of the petitioner is nothing but an abuse of the process of the Court. He has submitted that as the parties have compromised the matter and have decided to bury the hatchet, though after affirming of conviction and sentence awarded to the petitioner by the learned Judicial Magistrate Ist Class, Jalandhar upto this High Court. So the present petition is liable to be accepted and the orders stated above are liable to be quashed. He has further submitted that keeping in view the compromise effected between the parties, no purpose will be served by sending the petitioner to undergo the sentence awarded by the learned Judicial Magistrate Ist Class, Jalandhar specially when the complainant has no grudge against him and all the issues have been settled by the parties. He has relied upon the order passed by the Hon'ble Supreme Court in '***K. Subramanian vs. R. Rajathi represented by Power of Attorney***', 2010(1) RCR(CrL.)184, wherein the Hon'ble Supreme Court allowed the parties to compound the offence even after affirming of conviction and sentence awarded to the



petitioner upto the Hon'ble Supreme Court. He has further relied upon the judgment passed by the Division Bench of Hon'ble Andhra Pradesh High Court in '*T.G. Mallikarjuna Setty and another vs. Union of India, rep. By its Secretary, Ministry of Home Affairs, New Delhi and others*', 2011(8) RCR (Criminal) 2823, wherein the compromise effected between the parties has been accepted by the Court. He has further submitted that in compliance of order dated 12.12.2024, 15% of the cheque amount, has already been deposited by the petitioner. He submits that though the petitioner has already been convicted and sentenced by the Court of competent jurisdiction, which order has been upheld upto this Court but keeping in view the fact that respondent No.1 does not want to prosecute the petitioner any more in view of the settlement effected between the parties. Thus, the proclamation along with all consequential proceedings along with judgment/order of conviction and sentence dated 27.04.2002 passed by the learned Judicial Magistrate Ist Class, Jalandhar which has been affirmed by this Court may kindly be quashed.

4. Learned counsel for respondent No.1 has affirmed the submissions made by counsel for the petitioner and thus, he has submitted that inter-se dispute between the parties is resolved amicably and has not disputed the factum of compromise effected between the parties. Hence, he has pleaded no objection, if the present petition is allowed and the orders under challenge are set aside/quashed.

5. This Court vide order dated 28.05.2024 directed the parties to appear before the trial Court/Illaq Magistrate for recording their



statements, as contended before the Court, and the trial Court/Illaq Magistrate was also directed to send its report.

6. In pursuance to the same, learned Judicial Magistrate Ist Class, Jalandhar has sent the report dated 20.07.2024 to this Court. With the report, he has annexed the photocopy of statement of attorney holder of the complainant/respondent No.1, namely, Sukhvir Singh Thind and photocopy of statement of accused-petitioner, namely, Surjit Singh recorded on 17.07.2024. On the basis of the statements, learned Judicial Magistrate Ist Class, Jalandhar has concluded in the report that the compromise arrived at between the parties is genuine, voluntarily and out of free will and is effected without any pressure, coercion or undue influence from any quarter. It has further been mentioned that as per the statement of the accused, he is not involved in any other case. It has further been mentioned that there is no Investigating Officer in this case as the present complaint pertains to Section 138 of Negotiable Instruments Act. It has also been mentioned that the accused-petitioner was convicted under Section 138 of NI Act by the trial Court vide judgment dated 27.04.2002.

7. I have heard learned counsel for the parties, perused the record and the report sent by the learned Judicial Magistrate Ist Class, Jalandhar.

8. A bare perusal of statutory provision of the 528 of B.N.S.S. would show that the High Court may make such orders, as may be necessary to give effect to any order under this Code or to prevent abuse



of the process of any Court or otherwise to secure the ends of justice. Section 359 B.N.S.S. is equally relevant for consideration, which prescribes the procedure for compounding of the offences under the Bharatiya Nyaya Sanhita.

9. Hon'ble Supreme Court in '**Ramgopal and another vs. State of Madhya Pradesh**', 2021(4) RCR (Criminal) 322 has held as under:

“13. *It appears to us that criminal proceedings involving non-heinous offences or where the offences are predominantly 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 extraordinary 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).

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19. *We thus sum-up and hold that as opposed to Section 320 Cr.P.C., 1973 where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under Section 482 Cr.P.C., 1973 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., 1973 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."*
10. The Hon'ble Division Bench of Andhra Pradesh High Court in '***T.G. Mallikarjuna Setty and another's case (supra)***' held as under:

“7. We can therefore, gather that compounding of an offence is essentially an act of a compromise between the prosecutor and the person proceeded against by entering into a settlement for a consideration not to prosecute the person concerned. While a compromise between the parties essentially being a private arrangement can bring home some solace to the accused person from the civil liability arising out of his own act of default, but, however, when once the same act also is recognised as an offence, no further liability can be avoided by such a person unless the statute recognizes the offence as a



compoundable one. In other words, by entering into a negotiated settlement, a civil liability can be annulled completely to the satisfaction of the persons entering into the compromise but, insofar as criminal culpability is concerned, it would persist so long as the statute does not recognise the offence committed as a compoundable one. Our Parliament therefore, after a careful assessment of all the relevant circumstances and factors felt it expedient to recognise the offences committed under the Negotiable Instruments Act as compoundable offences. But, at the same time, no specific procedure has been set out as to how to achieve the said objective.)”

11. Similarly the Hon'ble Supreme Court in '***K. Subramanian's*** case (*supra*) has allowed the parties to compound the offence in a review petition even after the order of conviction and sentence awarded to the petitioner therein was affirmed upto the Hon'ble Supreme Court.

12. Though the revision petition earlier filed before this Court against the conviction and sentence awarded to the petitioner was dismissed by this Court upholding the order of conviction and sentence awarded by the learned Judicial Magistrate Ist Class, Jalandhar and affirmed by the Court of learned Additional Sessions Judge, Jalandhar yet keeping in view the settlement effected between the parties through at the belated stage, this Court does not hesitate to accept the same as after litigating for a long period of trial, a good sense has prevailed upon them and they have settled the matter amicably and have decided to end their ill will/grudge & enmity against each other. In this regard, the Court finds support from the decision of Hon'ble Supreme Court in **K.**



Subramanian's case (supra) wherein even after upholding the conviction and sentence awarded to the petitioner therein, the Hon'ble Supreme Court in a review petition allowed the petitioner to compound the offence, so keeping in view the observations made in the above said judgments, this Court finds it appropriate to allow the parties to compound the offence in view of the compromise effected between them. The present petition is thus allowed. The order of proclamation dated 29.04.2024 (Annexure P-1) issued by the Court of learned Chief Judicial Magistrate, Jalandhar along with the order of conviction and sentence dated 27.04.2002 passed by the learned Judicial Magistrate Ist Class, Jalandhar affirmed by the learned Additional Sessions Judge, Jalandhar vide order dated 17.05.2003 and also by this Court vide order dated 15.02.2010 passed in CRR No.1181 of 2003 are hereby quashed and the petitioner is acquitted of the charges framed against him. Needless to say that the parties shall remain bound by the terms and conditions of the compromise and their statements recorded before the Court below.

13. Petition stands allowed.

01.05.2025

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(RAJESH BHARDWAJ)
JUDGE

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