

(2015) 11 P&H CK 0014
In the Punjab And Haryana At Chandigarh
Case No : CRM-M-21358 of 2015

Bachittar Singh and Others	Vs	APPELLANT
State of Punjab and Others		RESPONDENT

Date of Decision : 05-11-2015

Acts Referred:

Constitution of India, 1950 — Article 142
Criminal Procedure Code, 1973 (CrPC) — Section 320, 482
Penal Code, 1860 (IPC) — Section 148, 149, 323, 326, 354

Citation : (2015) 11 P&H CK 0014

Hon'ble Judges : Hari Pal Verma, J.

Bench : Single Bench

Advocate : Pankaj Jain, Advocate, for the Appellant; R.S. Nain, AAG, for the Respondent

Judgement

Hari Pal Verma, J.—Prayer in this petition filed under Section 482 Cr.PC is for quashing of the FIR No. 60 dated 15.08.2006 (Annexure P-1) under Sections 354 , 323 , 148 and 149 IPC registered at Police Station Sohana, District S.A.S. Nagar, Mohali on the basis of compromise dated 25.05.2015 (Annexure P-4) and all other subsequent proceedings arising therefrom including the judgment of conviction and order of sentence, both dated 29.11.2013 passed by the learned Judicial Magistrate 1st Class, SAS Nagar, Mohali, whereby the petitioners, namely, Bachittar Singh, Darshan Singh, Balwinder Singh @ Babli and Dalbir Singh were convicted and sentenced as under:

However, all the substantive sentences were ordered to run concurrently.

2. Quashing of the aforesaid FIR and setting aside of the impugned judgment and order dated 29.11.2013 passed by the learned trial Court is sought on the basis of compromise dated 25.5.2015 as entered between the parties during the pendency of the appeal before the learned appellate Court, Mohali.

3. Vide order dated September 24, 2014 of this Court, the parties were directed to be present themselves before the Illaqa Magistrate/trial Court on 16.10.2015

for recording their statements with regard to compromise.

4. Pursuant to the aforesaid order, the learned Judicial Magistrate 1st Class, Mohali had recorded the statements of the parties and forwarded the report dated 26.10.2015 to the effect that the statements of complainant and the accused persons reveal that the compromise between them is voluntarily and without any undue influence.

5. On the basis of the statements of the parties and the report submitted by the learned Magistrate, Mohali, it is established that the complainant has genuinely entered into a compromise with the petitioners.

6. Learned counsel appearing for the respondent-complainant has also fairly conceded the factum of compromise entered into between the parties. He has submitted that the compromise between the parties is genuine and without any pressure or coercion.

7. Learned State counsel has also not disputed the factum of compromise entered between the parties.

8. I have heard learned counsel for the parties.

9. In the present case, it is an admitted fact that petitioner No. 1 Bachittar Singh and respondent No. 2-complainant Parvinder Kaur were husband and wife earlier and got divorce by way of a decree of divorce dated 2.8.2008 from the Court of learned Additional Sessions Judge, Mohali. It is also a conceded fact that the compromise has taken place with the intervention of respectable persons especially with the active intervention of Manjit Kaur, who is daughter of petitioner No. 1 and respondent No. 2. Said Manjit Kaur is now major and her marriage has also been solemnised by the petitioner No. 1 and respondent No. 2-complainant.

10. The statement of respondent No. 2-complainant Parvinder Kaur recorded by the learned Magistrate, Mohali on 16.10.2015 is reproduced as under:

"Stated that on my statement the present case was registered at Police Station Sohana against the accused. However, with the intervention of the respectable persons matter has been compromised between us without any force, fraud, undue influence. I have seen the original compromise and it bear my signatures, signature of my daughter Manjit Kaur along with all the accused present in the Court today and same is Ex. C1. The compromise has been matured with the active intervention of my daughter Manjit Kaur who is major and had been married and by both Bachittar Singh and myself. I have taken divorce from Bachittar Singh. The said compromise is voluntarily, without any force, fraud, fear and pressure of anyone. The FIR may kindly be quashed."

11. This Court in the case of Sube Singh and Another Vs. State of Haryana and Another, has considered the compounding of offences at the appellate stage and has observed that even when appeal against the conviction is pending before

the Sessions Court and parties entered into a compromise, the High Court is vested unparallel power under Section 482 Cr.PC to quash criminal proceedings at any stage so as to secure the ends of justice and has observed as under:

"15. The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 Criminal Procedure Code and pass an appropriate order so as to secure the ends of justice.

16. As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code to quash the criminal proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has been held guilty and convicted by the trial Court, we find that in Dr. Arvind Barsaul etc. Vs. State of Madhya Pradesh and Another, , the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498A Indian Penal Code and sentenced to 18 months" imprisonment and his appeal was pending before the first appellate court. The Apex Court quashed the criminal proceedings keeping in view the peculiar facts and circumstances of the case and in the interest of justice observing that "continuation of criminal proceedings would be an abuse of the process of law" and also by invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.

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.

18. xxx xxx

19. xxx xxx

20. xxx xxx

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.

22. Consequently and for the reasons afore-stated, we allow this petition and set aside the judgement and order dated 16.03.2009 passed in Criminal Case No. 425-1 of 2000 of Additional Chief Judicial Magistrate, Hisar, on the basis of compromise dated 08.08.2011 arrived at between them and their step-mother respondent No. 2 (Smt. Reshma Devi) w/o late Rajmal qua the petitioners only. As a necessary corollary, the criminal complaint filed by respondent No. 2 is dismissed qua the petitioners on the basis of above-stated compromise. Resultantly, the appeal preferred by the petitioners against the above-mentioned order dated 16.03.2009 would be rendered infructuous and shall be so declared by the first Appellate Court at Hisar."

12. Similarly, in the case of Baghel Singh Vs. State of Punjab, whereby the accused was convicted under Section 326 IPC and was sentenced to undergo rigorous imprisonment for two years, the parties entered into compromise during the pendency of the appeal. This Court while relying upon the judgment of Lal Chand Vs. The State of Haryana, and Chhota Singh Versus State of Punjab 1997(2) RCR (Criminal) 392 allowed the compounding of offence in respect of offence under Section 326 IPC at the appellate stage with the observation that it will be a starting point in maintaining peace between the parties, such offence can be compounded.

13. In view of the above, when the matter has been compromised between the parties with the intervention of respectables and especially with the active intervention of Manjit Kaur, who is married daughter of petitioner No. 1 and respondent No. 2-complainant, no useful purpose would be served to continue with the proceedings before the appellate Court.

14. Therefore, while relying upon the aforesaid judgments and coupled with the fact that the parties have entered into a compromise and learned Magistrate has submitted her report in support of genuineness of the compromise, the present petition is allowed and the FIR No. 60 dated 15.08.2006 (Annexure P-1) under Sections 354 , 323 , 148 and 149 IPC registered at Police Station Sohana, District S.A.S. Nagar, Mohali and all subsequent proceedings arising therefrom is quashed, on the basis of compromise dated 25.05.2015 (Annexure P-4).

15. Consequently, the impugned judgment of conviction and order of sentence, both dated 29.11.2013 passed by the learned Judicial Magistrate 1st Class, SAS Nagar, Mohali are set aside. The appeal preferred by the petitioners against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first appellate Court.