

Chetan Dass vs State on 19 February, 2025

Author: Anup Jairam Bhambhani

Bench: Anup Jairam Bhambhani

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IN THE HIGH COURT OF DELHI AT NEW DELHI
CRL.REV.P. 207/2020 & CRL.M.A. 11886/2020
CHETAN DASS

Through: Mr. G.S. Sharma
versus

STATE

Through: Mr. Digam Singh
State.
Mr. Maijuddin
and mother of

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI
ORDER

% 19.02.2025 By way of the present application filed under section 482 of the Code of Criminal Procedure 1973 ('Cr.P.C.'), the petitioner/applicant seeks the leave of the court to place on record an Amended Memo of Parties, thereby impleading the complaint (mother of the deceased) as respondent No.2 in the present proceedings. A copy of Amended Memo of Parties dated 15.01.2025 has been appended to the present application.

2. For the reasons stated in the application, which is duly supported by an affidavit, the application is allowed.

3. The complainant (mother of the deceased) is impleaded as party respondent No.2 in the matter.

4. The Amended Memo of Parties appended to the present application is taken on record.

5. The application stands disposed-of.

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6. At the outset, Mr. G.S. Sharma, learned counsel appearing on behalf of the petitioner submits, that for the reasons explained, the present criminal revision petition be treated as a petition under section 482 Cr.P.C. read with Article 226 of the Constitution of India.

7. On oral prayer made on behalf of the petitioner, the present petition is treated as one filed under section 482 Cr.P.C. read with Article 226 of the Constitution.

8. By way of the present petition, the petitioner impugns order dated 12.02.2020 passed by the learned Session Court in Crl. Appeal No.14/2018, whereby the learned Sessions Court has dismissed the petitioner's appeal and has upheld judgement of conviction dated 07.12.2017 passed by the learned Metropolitan Magistrate by which the petitioner has been convicted for the offences under section 279/304-A of the Indian Penal Code, 1860 ('IPC'); and has been sentenced to simple imprisonment for 06 months and fine of Rs. 30,000/- with a default imprisonment of 03 months vide order dated 19.12.2017.

9. Notice on this petition was issued vide order 10.06.2020, pursuant to which status reports dated 29.08.2020 and 27.05.2024 have been filed on behalf of the State.

10. Nominal Roll dated 02.07.2020 has also been received from the concerned Jail Superintendent.

11. During the pendency of the present petition, the petitioner has moved CRL.M.A. No. 2206/2025 seeking to 'compound the conviction of The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 21/03/2025 at 21:19:53 offences' in view of a compromise arrived at with the complainant (mother of the deceased).

12. In support of his plea, Mr. Sharma has placed reliance on a recent judgement of the Supreme Court in Suraj Singh Gujar & Anr. vs. State of Madhya Pradesh & Ors. 1 , in particular to the following paragraphs of that ruling :

"2. The appellants have been convicted by the Trial Court under Sections 323, 324 and 325 read with Section 34 of the Penal Code, 1860 and sentenced to undergo rigorous imprisonment for three months, six months and one year for respective offences. Vide the impugned order dated 26.12.2023, Madhya Pradesh High Court disposed of the criminal appeal of appellants by maintaining their conviction and sentence as awarded by the Trial Court.

***** "5. As far as Sections 323 and 325 of the IPC are concerned, offences under these provisions are compoundable but the offence under Section 324 of the IPC is a non-compoundable offence.

"6. Courts cannot grant permission to compound the noncompoundable offences, on the basis of any sort of compromise between the parties, as it would be contrary to what has been provided by legislation, except the High Court under Section 482 of Cr.P.C. and the Apex Court in exercise of its powers under Article 142 of the Constitution of India.

The compromise between the parties in non-compoundable cases has been taken into consideration by this Court in various occasions to reduce the sentence of the convicts. (See : Murali v. State (2021) 1 SCC 726; Manjit Singh v. State of Punjab (2020) 18 SCC 777). Also, in a series of other cases, considering that the incident

occurred between relatives and the incident is of such a nature which did not have much impact on society, this Court had set aside the conviction by invoking its power under Article 142 of 2024 SCC OnLine SC 2414 The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 21/03/2025 at 21:19:53 the Constitution in matters involving non-compoundable offences. (See : Kailash Chand v. State of Rajasthan (2021) 18 SCC 534; Srinivasan Iyenger v. Bimla Devi Agarwal (2019) 4 SCC 456; Ramawatar v. State of M.P. (2022) 13 SCC 635).

However, this is to be done only in exceptional cases after considering various factors including the nature of injuries, relation between parties and the impact of crime on society, etc. While discussing the powers of Article 142 of the Constitution and Section 482 CrPC (in relation to High Courts) in quashing criminal proceedings in non-compoundable offences, this Court in Ramgopal v. State of M.P. (2022) 14 SCC 531 observed as follows:

"19. We thus sum up and hold that as opposed to Section 320 CrPC 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 CrPC or vested in this Court under Article 142 of the Constitution, can be invoked beyond the metes and bounds of Section 320 CrPC. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind:

19.1. Nature and effect of the offence on the conscience of the society;

19.2. Seriousness of the injury, if any; 19.3 Voluntary nature of compromise between the accused and the victim; and 19.4 Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations."

Considering the aforesaid factors, we have no doubt that the present case, which we are dealing with, is a fit case to invoke our powers under Article 142 of the Constitution."

(emphasis supplied)

13. Mr. Sharma submits, that the incident for which the petitioner has been convicted arises from a motor vehicle accident which resulted in the death of an 8 ½ year old boy. It is submitted, that the complainant The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 21/03/2025 at 21:19:53 had also filed a claim before the learned Motor Accidents Claims Tribunal ('MACT'), in which she was awarded and has received compensation in the sum of Rs. 2.25 lacs.

14. Learned counsel submits, that thereafter, since the complainant also realised that the petitioner was not culpable otherwise, the next-of-kin of the deceased viz. his father and mother (complainant)

are agreeable to compromising the matter with the petitioner in lieu of receiving an additional sum of monetary compensation.

15. In this behalf, Mr. Sharma submits, that as per Compromise Deed dated 28.12.2024 signed between the petitioner and the complainant, the petitioner is ready and willing to pay to the next-of-kin of the deceased the entire fine amount of Rs. 30,000/- that has been awarded against him alongwith an additional sum of Rs. 70,000/- in full and final settlement of the matter and in lieu of the next-of-kin of the deceased agreeing to support the petitioner's plea in the present proceedings. A copy of compromise deed dated 28.12.2024 has been filed alongwith the present application.

16. In addition, Mr. Sharma points-out that the petitioner was a driver employed with the Delhi Police; and if his conviction is not set-aside, he would lose all his retiral and pensionary benefits.

17. Learned counsel further submits, that as would be seen from the petitioner's nominal roll, as of 02.07.2020, he has already served 03 months and 20 days out of the 06-month custodial sentence awarded to him, after which his sentence was suspended.

18. The next-of-kin of the deceased, being his parents viz. Mr. Maijuddin (father) and Ms. Jaibul alias Jatoon (mother-complainant) are present. The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 21/03/2025 at 21:19:53 in court. The court has interacted with them at length; and they confirm that they are agreeable to a settlement with the petitioner subject to the petitioner paying to them the sum of Rs. 70,000/- in addition to fine of Rs. 30,000/- awarded by the learned trial court, which amount has already been received by them.

19. In light of the observations made by the Supreme Court in Suraj Singh Gujar (supra), the considerations that weigh with this court in the present matter are as follows :

19.1. The next-of-kin of the deceased have already received Rs. 2.25 lacs as compensation in proceedings before learned MACT.

They have also received the sum of Rs. 30,000/-, which was imposed as fine against the petitioner in the criminal proceedings, by way of compensation. They are also agreeable to settling the matter in lieu of receiving an additional sum of Rs. 70,000/- from the petitioner;

19.2. The petitioner has already served 03 months and 20 days out of the 06-month custodial sentence awarded to him; and he has paid the fine of Rs. 30,000/- as compensation to the complainant;

19.3. Upon being prompted by the court, the petitioner has also agreed to pay to the next-of-kin of the deceased an additional sum of Rs. 1 lac, that is to say in addition to what has been agreed to in Compromise Deed dated 28.12.2024, meaning thereby that the next-of-kin of the deceased would receive a sum of Rs. 2,00,000/- (Rs.30,000/- + Rs.70,000/- + The authenticity of the order can be

re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 21/03/2025 at 21:19:53 Rs.1,00,000/-) as compensation apart from the sum of Rs. 2.25 lacs received in proceedings before the learned MACT; and 19.4. On the other hand, if the conviction of the petitioner stands, he would be liable to lose all his retiral and pensionary benefits, since he was employed as a driver with the Delhi Police.

20. Upon an overall consideration of the aforesaid aspects, this court is of the view that in the interests of justice will be served, if the following directions are issued :

20.1. The petitioner is directed to pay to the complainant a sum of Rs. 1.70 lacs (Rs.2,00,000/- less the fine of Rs.30,000/- which already stands paid) within 04 weeks by demand draft/pay order against written acknowledgment;

20.2. Subject to the petitioner complying with the aforesaid, the petitioner's conviction vide judgement dated 07.12.2017 is hereby set-aside, and the petitioner is acquitted of the offences charged; and 20.3. As a sequitur to the above, sentencing order dated 19.12.2017 is also hereby set-aside.

21. For ensuring compliance of the above directions, re-notify on 19th March 2025.

ANUP JAIRAM BHAMBHANI, J FEBRUARY 19, 2025 V.Rawat The authenticity of the order can be re-verified from Delhi High Court Order Portal by scanning the QR code shown above. The Order is downloaded from the DHC Server on 21/03/2025 at 21:19:53