HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Criminal Appeal No. 140/1996

State of Rajasthan

----Appellant

Versus

Moola Ram son of Kalla, resident of Rawatsar, P.S. Sadar, Barmer District Barmer.

----Respondent

For Appellant(s) : Mr. N.S. Chandawat, Dy.G.A.
For Respondent(s) : Mr. Tananjay Parmar, Amicus Curiae

HON'BLE MR. JUSTICE FARJAND ALI

Order

Reportable-

07/03/2026

1. By way of filing the instant criminal appeal, the State has made challenge to the order dated 02.01.1990 passed by the Judicial Magistrate, Barmer in criminal regular case No.264/1989 whereby the learned Magistrate allowed the application for compromise and acquitted the accused-respondent from the charge under Section 429 of the IPC by compounding the offence.

2. The sum and substance of the State’s plea would be that the party who entered into compromise with the accused-respondent was not a competent person to make a plea for compounding the offence. It is their case that the goats were belonging to one Bhuraram, however, the compromise in this case was executed by

one Ramaram who happened to be the first informant of the case. It is their plea that in cognizable offences, the first informant may be termed as complainant; however, when it comes to the question of compounding an offence, only the person who is competent as envisaged under Section 320 of the Cr.P.C. can move an application for compounding the offence. The learned Magistrate attested the compromise entered into between accused Mularam and the complainant Ramaram, and on the basis of such compromise, acquitted the accused-respondent from the charges under Section 429 of the Cr.P.C.

3. Since no one was present for the respondent, this Court appointed Mr. Tananjay Parmar as *amicus curiae.* He was given sufficient time to go through the file for a considerable period and whereafter heard this submission canvased on his behalf.

4. I pondered over the issue and minutely gone through the impugned order dated 02.01.1990 as well as the FIR No.264/1989 of Police Station Sadar, Barmer, lodged at the instance of the complainant Ramaram, which contains a clear recital regarding the killing of goats belonging to one Bhuraram. As per section 320 of the Cr.P.C., only the owner of the property, who was Bhuraram in this case, was competent to enter into the compromise with the accused. Ramaram, who entered into the compromise with the accused, had no authority and was not a competent person as per the statutory provision to make a plea for compounding the offence.

5. It is true that the compromise was not furnished by a competent person and therefore, the learned Magistrate was not

supposed to attest the same and place reliance on it for compounding the offence and acquitting the accused. Since the acceptance of the application for compounding the offence was not in accordance with law, the pronouncement of order of acquittal is also not strictly in accordance with law.

6. At the same time, this Court feels that though Shri Ramaram was not the owner of the property but he was full-blood brother of the Bhuraram, and the goats were grazing in his field, still he was not a competent person as per provisions to enter into the compromise. However, looking to the fact that the incident took place in the year 1989 and the case is exclusively triable by the Court of a Magistrate which contains punishment which do not extend to five years, remanding the matter back for conducting a fresh trial after a lapse of 37 years, in my view, would not secure the ends of justice.

7. Having regard to the peculiar facts and circumstances of the case, this Court is of the considered opinion that although the impugned order dated 02.01.1990 passed by the learned Magistrate cannot be said to be strictly in consonance with the statutory mandate of Section 320 of the Cr.P.C., nevertheless, the incident in question pertains to the year 1989 and more than thirty-seven years have elapsed since the alleged occurrence. At this distant point of time, reopening the entire matter and directing a fresh trial would neither serve any meaningful purpose nor advance the cause of justice. Rather, such a course would only revive a stale controversy and subject the parties to unnecessary hardship and protracted litigation. This Court is, therefore, of the

view that after such an inordinate lapse of time, it would not be appropriate for this Court to reopen the issue and unsettle the position which has remained undisturbed for decades. In order to balance the technical infirmity in the impugned order with the overarching requirement of securing the ends of justice, this Court deems it proper to exercise its inherent jurisdiction to bring quietus to the proceedings. Consequently, while observing that the impugned order dated 02.01.1990 may not strictly withstand legal scrutiny, the continuation or revival of the criminal proceedings at this stage is considered wholly unwarranted.

8. It is also trite law that the High Court, being a constitutional Court of record, is vested with wide inherent powers to secure the ends of justice and to prevent abuse of the process of the Court. The availability and exercise of such inherent jurisdiction is not dependent upon the form or stage of the proceedings in which the matter comes before the Court. Merely because the present matter has been placed before this Court in the form of an appeal against acquittal would not operate as a legal impediment upon the Court in invoking its inherent powers, if the facts and circumstances of the case so demand. The inherent jurisdiction of the High Court is preserved to meet extraordinary situations where strict adherence to procedural technicalities may result in injustice or perpetuation of a futile litigation. The High Court, therefore, is competent to exercise such powers even while sitting in its appellate jurisdiction, if doing so is necessary to secure the ends of justice or to prevent misuse of the judicial process. In the present case, although the impugned order of the learned

Magistrate may not strictly conform to the statutory requirement of Section 320 of the Code of Criminal Procedure, yet the occurrence in question dates back to the year 1989 and more than three decades have elapsed since then. Directing a retrial at this distant point of time would neither subserve the interest of justice nor serve any fruitful purpose. Rather, it would only reopen a matter which has long remained settled and would unnecessarily revive litigation between the parties after an inordinate lapse of time. In these peculiar circumstances, this Court is of the considered view that the ends of justice would be better served by bringing a quietus to the entire controversy instead of unsettling the position which has prevailed for decades.

9. Accordingly, this Court, in exercise of its inherent powers, deems it appropriate to put a quietus to the proceedings and to prevent further prolongation of a stale dispute. By invoking the inherent powers of this Court to secure the ends of justice, the entire proceedings against the accused-respondent are hereby quashed and set aside, and the criminal appeal stands disposed of.

10. The accused need not to surrender. If bail bonds are furnished, the same shall be discharged. Record be sent back.

11. The remuneration payable to the learned Amicus Curiae shall be borne by the RSLSA, in accordance with the rules governing such appointments.

(FARJAND ALI),J

3-Arjun/-