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In the High Court of Punjab and Haryana at Chandigarh.

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Date of Decision: 09.12.2015

Sukhwinder Singh and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Vishal Munjal, Advocate,
for the petitioners.

Mr. R.P.S. Sidhu, AAG, Punjab.

Mr. Vipin Mahajan, Advocate,
for respondent No.2.

SABINA, J.

Petitioners had faced trial under Sections 452, 326, 323, 148 and 149 of the Indian Penal Code, 1860 ('IPC' for short) in FIR No.168, Dated 19.12.2006, registered at Police Station Sirhargobindpur, Police District Batala, District Gurdaspur, Punjab.

Trial Court vide judgment/order dated 16.01.2014 ordered the conviction and sentence of the petitioners under Sections 326 and 323 IPC, however, remaining co-accused were acquitted from the charges framed against them. Aggrieved against the said judgment/order of their conviction

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and sentence, petitioners preferred an appeal before the Appellate Court. However, during the pendency of the appeal, parties have amicably settled their dispute.

Learned counsel for the petitioners has submitted that the FIR in question was liable to be quashed as the parties had amicably settled their dispute. In support of his arguments, learned counsel for the petitioners has placed reliance on the judgment of this Court in **Sube Singh and another Vs. State of Haryana and another 2013 (4) R.C.R. (Criminal) 102**, wherein, following questions were framed for consideration:-

“(1) Whether the power exercisable by the High Court under Section 482 CrPC is controlled by Section 320 CrPC or it can be invoked in an appropriate case even if the offences are not compoundable in nature?

(2) Whether criminal proceedings can be quashed by the High Court in exercise of its power under Section 482 CrPC even after the accused was found guilty and convicted by the trial court though the matter is sub judice before the appellate court?”

While dealing with question No.1, this Court in para 15 of the judgment has held as under:-

“The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from

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resorting to its inherent power under Section 482 CrPC and pass an appropriate order so as to secure the ends of justice.”

While dealing with question No.2, this Court in paras 16, 17 and 21 of the judgment has held under:-

“16 As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 CrPC 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 & Anr., 2008 (2)RCR (Criminal) 910, (2008) 5 SCC 794, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498-A IPC 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

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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 CrPC 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 CrPC 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.

X-X-X-X-X-X

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

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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 CrPC 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.”

Vide order dated 26.05.2015, trial Court/Area Magistrate was directed to record the statements of parties and send its report qua genuineness of compromise effected between the parties.

In pursuance to the said order, the Magistrate, after recording the statements of the parties, has reported that the compromise effected between the parties was voluntary and without undue influence, pressure or coercion.

Thus, this case is covered by the decision given by Division Bench of this Court in Sube Singh's case (supra). Accordingly, this petition is allowed. Impugned judgment/order dated 16.01.2014 of conviction and sentence passed by the trial court are set aside. Consequently, the criminal proceedings against the petitioners on the basis of the FIR No.168, Dated 19.12.2006, under Sections 452, 326,

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323, 447, 448, 511, 148 and 149, registered at Police Station Sirhargobindpur, Police District Batala, District Gurdaspur, Punjab and all subsequent proceedings arising therefrom on the basis of compromise arrived between the parties, are quashed. Resultantly, the appeal preferred by the petitioners before the Appellate Court would be rendered infructuous and shall be so declared by the Appellate Court at Gurdaspur.

December 09, 2015
kapil

(SABINA)
JUDGE