

Crl. Misc. No.M-18632 of 2014

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

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Date of decision: 07.08.2015

Ashok Kumar Garg and another

....Petitioners

Versus

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Karan Garg, Advocate, for
Mr. Harish Sharma, Advocate, for the petitioners.
Mr. K.S. Sidhu, DAG, Punjab.
Mr. R.M. Suri, Advocate, for respondent No.2.

PARAMJEET SINGH, J.

This petition has been filed by the petitioners under Section 482 of the Code of Criminal Procedure, seeking quashing of case FIR No.132 dated 17.09.2013 registered under Sections 465/467/468/471/120-B IPC at Police Station Division No.2, Ludhiana, along with all consequential proceedings arising therefrom, on the basis of compromise dated 15.04.2014 (Annexure P-3) between the parties.

On 27.04.2015 parties were given liberty to appear before the

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trial Court/Illaqa Magistrate to get their statements recorded with regard to compromise/settlement and trial Court/Illaqa Magistrate was directed to send the report.

In pursuance of order dated 27.04.2015, learned Judicial Magistrate Ist Class, Ludhiana, has submitted report vide letter dated 01.06.2015, which indicates that parties appeared before learned Magistrate and got recorded their respective statements with regard to validity of compromise. As per report, petitioners have paid the entire due amount and no other amount is pending towards the petitioners and the bank has also issued NOC to them. Perusal of report shows that compromise arrived at between the parties is genuine and without any pressure or coercion from any corner. Learned counsel for the parties state that now no dispute survives between the parties.

Learned counsel for the petitioners contended that co-accused Harish Chander Mehta has also filed petition bearing No. CRM-M-22329 of 2015 for quashing of the aforesaid FIR wherein notice of motion has been issued for 06.10.2015. The parties have now settled down separately. It is contended that proceedings qua the petitioners may be quashed in view of the compromise between the parties.

Learned counsel for respondent No.2-complainant contends that the complainant has compromised the matter and it has no grievance, if proceedings qua the petitioners are quashed.

I have heard counsel for the parties and considered their

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contentions.

The Hon'ble Supreme Court in **Jayrajsinh Digvijaysinh Rana vs. State of Gujarat and another 2012(4) RCR (Criminal) 589** has, on the basis of compromise arrived at between the parties, quashed criminal proceedings in an FIR case qua one of the accused-appellant before the Hon'ble Supreme Court. The Hon'ble Supreme Court in that case held as under:

“On going through the factual details, earlier decision, various offences under Section 320 of the Code and invocation of Section 482 of the Code, we fully concur with the said conclusion. In the case on hand, irrespective of the earlier dispute between Respondent No. 2- the complainant and the appellant being Accused No. 3 as well as Accused Nos. 1 and 2 subsequently and after getting all the materials, relevant details etc., the present appellant (Accused No. 3) sworn an affidavit with bona fide intention securing the right, title and interest in favour of Respondent No.2 herein-the Complainant. In such bona fide circumstances, the power under Section 482 may be exercised. Further, in view of the settlement arrived at between Respondent No. 2-the complainant and the appellant (Accused No. 3), there is no chance of recording a conviction insofar as the present appellant is concerned and the entire exercise of trial is destined to be an exercise in futility. Inasmuch as the matter has not reached the stage of trial, we are of the view that the High Court, by exercising the inherent power under Section 482 of the Code even in offences which are not compoundable under Section 320, may quash the prosecution. However, as observed in Shiji (supra), the

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power under Section 482 has to be exercised sparingly and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. In other words, the exercise of power must be for securing the ends of justice and only in cases where refusal to exercise that power may result in the abuse of the process of law.

10) In the light of the principles mentioned above, inasmuch as Respondent No. 2-the Complainant has filed an affidavit highlighting the stand taken by the appellant (Accused No. 3) during the pendency of the appeal before this Court and the terms of settlement as stated in the said affidavit, by applying the same analogy and in order to do complete justice under Article 142 of the Constitution, we accept the terms of settlement insofar as the appellant herein (Accused No. 3) is concerned.”

This Court has also in **Parambir Singh Gill vs. Malkiat Kaur, 2010(1) RCR (Criminal) 256** has quashed the complaint under Sections 3 and 4 of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act qua the petitioner in that case on the basis of compromise. Keeping in view the facts and circumstances of the present case, particularly when compromise has taken place between the parties, petitioners have paid the entire amount to the bank and bank has issued NOC, this Court is of the considered view that interest of justice warrants quashing of the FIR and proceedings arising therefrom qua the petitioners herein.

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Consequently, in view of compromise and keeping in view the law laid down by the Hon'ble Apex Court in the case of **Madan Mohan Abbot vs. State of Punjab, 2008(2) RCR (Criminal) 429**, **Gian Singh vs. State of Punjab and another, 2012(4) R.C.R.(Criminal) 543**, **Narinder Singh and others vs. State of Punjab and another, 2014(2) R.C.R. (Criminal) 482**, **Jayrajsinh Digvijaysinh Rana vs. State of Gujarat and another 2012(4) RCR (Criminal) 589** and Full Bench judgment of this Court in the case of **Kulwinder Singh and others vs. State of Punjab and another, 2007(3) RCR (Crl.) 1052** and **Parambir Singh Gill vs. Malkiat Kaur, 2010(1) RCR (Criminal) 256** no useful purpose would be served in prolonging the litigation, especially when this case does not fall within the category of exceptional cases where this Court should not exercise its inherent jurisdictional power to quash the criminal proceedings, as held in **Gian Singh (supra)** and **Narinder Singh and others (supra)**. In the facts and circumstances of this case, it would be unfair or contrary to the interest of justice to continue with the criminal proceedings or continuation of the criminal proceedings would amount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and to secure the ends of justice, therefore, it is appropriate that criminal case is put to an end.

The present petition is allowed. FIR No.132 dated 17.09.2013 registered under Sections 465/467/468/471/120-B IPC at Police Station Division No.2, Ludhiana, along with all consequential proceedings arising

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out of it, on the basis of compromise, is quashed qua petitioners.

It is, however, made clear that if the proceedings already stand concluded and conviction recorded in the present case, this order shall be treated non est and, thus, will have no bearing on the conviction and sentence order.

(Paramjeet Singh)
Judge

August 07, 2015
R.S.