

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. M-29211 of 2014

DATE OF DECISION: 08.01.2015

Gurdeep Singh and othersPetitioners

Versus

Rishi PalRespondent

BEFORE:- HON'BLE MRS. JUSTICE DAYA CHAUDHARY

- 1. Whether reporters of local newspaper may be allowed to see judgment?**
- 2. To be referred to reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present:- Mr. Vipin Mahajan, Advocate
for the petitioner.

Mr. Randeep Singh, Advocate
for the respondent.

DAYA CHAUDHARY, J.

The present petition has been filed under Section 482 Cr.P.C. for quashing of criminal complaint No. 311 of 8.11.2006 along with summoning order dated 5.5.2010 and all consequential proceedings arising therefrom, on the basis of compromise.

Respondent filed a complaint before Illaqa Magistrate, Gurdaspur and petitioners were summoned to face trial for offence punishable under Sections 323,324,326 read with Section 34 IPC and ultimately vide judgment dated 30.4.2013 were convicted and sentenced as

under:-

Sr. No.	Name of Convicts	Under Section	RI	Fine	In default
1.	Gurdip singh	326 IPC 324 IPC 323/34 IPC	Three years Two years One year	₹ 3000/- ₹ 2000/- ₹ 1000/-	4 months 3 months 1 month
2.	Sarwan singh	326/34 IPC 324/34 IPC 323/34 IPC	Three years Two years One year	₹ 3000/- ₹ 2000/- ₹ 1000/-	4 months 3 months 1 month
3.	Banta singh	326/34 IPC 324/34 IPC 323/34 IPC	Three years Two years One year	₹ 3000/- ₹ 2000/- ₹ 1000/-	4 months 3 months 1 month

Learned counsel for the petitioners contends that after conviction, the matter has been compromised between the parties and now the complainant has no objection in acquittal of the petitioners.

Notice of motion was issued in the case on 27.8.2014 and parties were directed to appear before the appellate Court for recording of their statements. The appellate Court was also directed to submit its report before this Court regarding genuineness/validity of the compromise.

In response to the directions issued by this Court, a report has been received from the appellate Court, which is on record. It has been mentioned in the report that the parties were present in the Court and their statements have been recorded, wherein, they have stated that they have voluntarily entered into the compromise out of their free will and without any undue influence, coercion, inducement, threat or promise. Complainant has specifically stated in his statement that he has no objection in quashing of the criminal proceedings initiated against the accused persons. He has also stated that he has no objection even if the proceedings are quashed.

Admittedly, the dispute between the parties has been settled by way of compromise and complainant has no objection in quashing of the criminal proceedings. No doubt, offence under Section 326 IPC is non-

compoundable but in view of compromise arrived at between the parties criminal proceedings can be quashed even in case where offences are non compoundable.

In ***Kulwinder Singh and others vs State of Punjab and others, reported as 2007(3) RCR (Criminal) 1052***, the Larger Bench of our own High Court has held that the High Court has the wide power to quash the proceedings even in non-compoundable offences, notwithstanding the bar under Section 320 of the Criminal Procedure Code, in order to prevent abuse of the process, any Court or to secure the ends of justice. In Kulwinder Singh's case, the Larger Bench has also observed :-

“The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social amity and reduces friction, then it truly is “finest hour of justice.” Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 Cr.P.C. in the event of a compromise, but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power.”

The Apex Court in the case of ***Madan Mohan Abbot v. State of Punjab***, reported as 2008 (2) R.C.R. (Criminal) 429:2008 (2) R.A.J. 529: (2008) 4 SCC 582 ***emphasized*** in para No. 6 as follows:-

“6. We need to emphasize that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the Court should ordinarily accept the terms

of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the Courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law.”

Hon'ble the Supreme Court in the case of ***B.S.Joshi and others v. State of Haryana and anr., reported as 2003 (2) RCR (Criminal) 888***, in para 6 and 11, held as under:-

“6. ***In Pepsi Food Ltd. & Anr. v. Special Judicial Magistrate & Ors., 1997 (4) R.C.R. (Criminal) 761: (1998) 5 SCC 749***, this Court with reference to Bhajan Lal's case observed that the guidelines laid therein as to where the court will exercise jurisdiction under Section 482 of the Code could not be inflexible or laying rigid formulae to be followed by the courts. Exercise of such power would depend upon the facts and circumstances of each case but with the sole purpose to prevent abuse of the process of any court or otherwise to secure the ends of justice. It is well settled that these powers have no limits. Of course, where there is more power, it becomes necessary to exercise utmost care and caution which invoking such powers.

11. In ***Madhavrao Jiwajirao Scindia & Ors. vs. Sambhajirao Chandrojirao Angre & Ors., 1988 (1) R.C.R. (Criminal) 565 : (1988) 1 SCC 692***, it was held that while exercising inherent power of quashing under Section 482, it is for the High Court to take into consideration any

special features which appears in a particular case to consider whether it is expedient and in the interest of justice to permit a prosecution to continue. Where, in the opinion of the Court, chances of an ultimate conviction is bleak and, therefore, no useful purpose is likely to be served by allowing a criminal prosecution to continue, the court may, while taking into consideration the special facts of a case, also quash the proceedings.”

Accordingly, this petition is allowed and criminal complaint No. 311 of 8.11.2006 along with summoning order dated 5.5.2010 and all consequential proceedings arising therefrom qua petitioners, namely, Gurdeep Singh, Sarwan Singh and Banta Singh are quashed.

January 08, 2015
pooja

(DAYA CHAUDHARY)
JUDGE