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

**CRM-M No.31983 of 2014
Date of Decision: 06.07.2015**

Kamaljit Singh @ Komal and others

.....Petitioners

Vs

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. N.S. Chahal, Advocate
for the petitioners.

Mr. Varun Sharma, A.A.G., Punjab.

Mr. H.R. Bhardwaj, Advocate
for respondent No.2.

1. ***Whether Reporters of 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?***

RAJ MOHAN SINGH, J. (Oral)

[1]. Prayer in this petition is for quashing of FIR No.150 dated 05.09.2008 under Sections 323/324/34 IPC (offence under Section 326 added later on on) P.S. Fatehgarh Sahib and judgment of conviction and sentence dated 01.08.2014, passed by Judicial Magistrate Ist Class, Fatehgarh Sahib, on the basis of compromise.

[2]. The petitioner were tried in the aforesaid FIR. Judicial Magistrate Ist Class, Fatehgarh Sahib, ultimately convicted petitioners under Sections 324, 323, 34 IPC and sentenced them

accordingly.

[3]. This Court vide order dated 06.09.2014 directed the parties to appear before the Appellate Court for recording their statements on the factum of compromise. Appellate Court was also directed to record the statements of the parties to its satisfaction and report regarding genuineness of the compromise in question.

[4]. In pursuance to the aforesaid order, both the parties appeared before the Additional District and Sessions Judge, Fatehgarh Sahib and got their statements recorded on 30.09.2014. Additional District and Sessions Judge, Fatehgarh Sahib also recorded its satisfaction vide report dated 15.10.2014, endorsing that the parties have effected compromise voluntarily and with their free will and consent. There is no element of pressure or coercion.

[5]. This Court is of the opinion that offence is private in nature and not against the whole society. Appeal against conviction is pending. In **2013(2) RCR (Crl.) 102, Sube Singh & Another v. State of Haryana and Another**, this Court held that magnitude of inherent powers is wide enough to cover proceedings in appeal also so as to prevent abuse of law and to achieve ends of justice. The compromise would facilitate both the parties to live in peace and to maintain public tranquility and offence in question is personal in nature and does not involve any heinous and serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. Therefore, when parties have resolved

their differences, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent unnecessary continuation of proceedings which may ultimately result in some unnecessary vagaries of criminal trial/appeal.

[6]. In 2014(3) RCR (Crl.) 854, Deva Ram v. State of Rajasthan and another the Hon'ble Apex Court held that since offence under Section 420 IPC is compoundable with permission of Court and the accused were sentenced for compoundable offences. Appeal and revision were dismissed and thereafter parties entered into compromise during pendency of appeal before the Hon'ble Supreme Court. Keeping in view the nature of offence, parties were allowed compounding of offences with the permission of Court and the accused was acquitted of the said charge.

[7]. Compoundable nature of offence under Section 320 IPC vis-a-vis the amendment Act No.25 of 2005 has been discussed in 2008(4) RCR (Crl.) 552, Manoj & Anr. v. State of Madhya Pradesh by the Hon'ble Apex Court. The Hon'ble Apex Court has observed in para No.13 as follows:-

“It requires to be noticed that Criminal Procedure Code (Amendment) Act, 2005 [Act No.25/2005] amended Section 320 of the Code and in the Table under sub-section (2) (a) the words “voluntarily causing hurt by dangerous

weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 has been omitted. But the said amendment by Act No.25 of 2005 has not yet been brought into force. Therefore, the offence under Section 324 is still compoundable with the permission of the Court.”

[8]. In **2009(2) RCR (Crl.) 859, Mathura Singh and others v. State of U.P.**, the compounding phenomenon was applied to offence under Section 324 IPC after conviction of the accused by the Hon'ble Apex Court in a compromise before it. **Manoj and anothers'** case (supra) was relied upon in this case.

[9]. Similarly in **2014(3) RCR (Crl.) 578, Baghel Singh v. State of Punjab**, this Court by relying upon earlier judgment of this Court allowed of compounding of offence in respect of offence under Section 326 IPC at appellate stage, where the Court came to the conclusion that it will be starting point in maintaining peace between the parties.

[10]. Other High Courts have also taken similar view in the following precedents:

2013 CriLJ 1712 (Gauhati) Prabhat Das and ors. v. State of Tripura & Ors.; 2014(11) RCR (Crl.) 13 (Kerala), Bineesh v. State of Kerala; 2014(3) RajCriC 806 (Rajasthan), Hans Raj and another v. State of Rajasthan and another.

[11]. The State on notice, however, objects to the aforesaid course, but in order to prevent unnecessary continuation of criminal

proceedings on the ground that both the parties have settled their dispute of private nature, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of compromise.

[12]. Resultantly, FIR No.150 dated 05.09.2008 under Sections 323/324/34 IPC (offence under Section 326 added later on on) P.S. Fatehgarh Sahib, judgment of conviction and sentence dated 01.08.2014, passed by Judicial Magistrate Ist Class, Fatehgarh Sahib and all the subsequent proceedings arising therefrom, are quashed.

July 06, 2015

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(RAJ MOHAN SINGH)
JUDGE