

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-34904 of 2013

.....

Date of decision:20.1.2015

Bhupinder Singh and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. K.B.S. Mann, Advocate for the petitioners.

Mr. A.S. Klar, Assistant Advocate General, Punjab
for the respondent-State.

Mr. Vivek Goel, Advocate for respondents No.2 to 4.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of cross case registered vide Rapat No.14 dated 28.2.2008 in case FIR No.27 dated 28.2.2007 registered for the offences under Sections 325, 323, 148 and 149 IPC and Section 25 of the Arms Act at Police Station Sadar Muktsar, District Sri Muktsar Sahib and for setting aside judgment dated 18.2.2012 (Annexure-P.2) passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.3).

The cross case vide Rapat No.14 dated 28.2.2008 has been

registered on the statement of complainant-Nihal Chand as the accused-petitioners attacked him with their respective weapons and inflicted injuries. After the trial, the learned Chief Judicial Magistrate, Sri Muktsar Sahib convicted the petitioners for the offences under Sections 325, 323, 148 and 149 IPC vide judgment dated 18.2.2012 and sentenced them to undergo maximum sentence of rigorous imprisonment for 2½ years and other sentences of rigorous imprisonment under the different sections as detailed in the impugned judgment. They have filed appeal against the judgment of conviction and sentence, which is pending in the Court of learned Additional Sessions Judge, Sri Muktsar Sahib. During the pendency of the appeal, now with intervention of Panchayat and respectable persons of the society and both the parties being of the same village, the matter has been amicably compromised between the parties and they have resolved their dispute, therefore, they were directed to appear before learned Chief Judicial Magistrate, Sri Muktsar Sahib for getting their statements recorded in support of the compromise. After doing the needful, learned Chief Judicial Magistrate, Sri Muktsar Sahib has sent her report dated 23.9.2014 submitting that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one. Complainant Nihal Chand alias Lal Chand has stated that besides him, Bhagwanti, Chinder Kaur and Mangal Singh are injured. Complainant/injured have made their statements in support of compromise. Complainant Nihal Chand has stated that injured Mangal Singh has expired. The case is stated to be pending before the

Court of learned District & Sessions Judge, Sri Muktsar Sahib. Complainant and injured have stated that the matter has now been compromised without any pressure, coercion and undue influence and they have no objection if the above cross-version case recorded vide above Rapat and all subsequent and consequential proceedings are quashed.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer and learned counsel for the respondents No.2 to 4 admit the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the above cross-case Rapat in view of the law laid down by the Hon'ble Supreme Court.

I have gone through the record and have heard learned counsel for the petitioners as well as learned Assistant Advocate General, Punjab and learned counsel for the complainant-respondents No.2 to 4.

Hon'ble Supreme Court in Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another, 2008 (2) R.C.R. (Cr.) 910, to contend that proceedings after conviction can be quashed. I have gone through this judgment, wherein the First Appellate Court rejected the compromise petition stating that the offence under Section 498-A IPC is not liable of compromise. The appellants being aggrieved from the said judgment of the First Appellate Court filed three separate petitions under Section 482 Criminal Procedure Code before the High Court for quashing the proceedings pending in the Court of Second Additional District &

Sessions Judge, Gawalior. The High Court also declined to interfere in the matter. The appellants being aggrieved by the impugned judgment of the High Court have preferred the appeal. The Hon'ble Supreme Court has held that in the peculiar facts and circumstances of the case and in the interest of justice, continuation of criminal proceedings would be an abuse of the process of law. Therefore, in exercise of power under Article 142 of the Constitution, the criminal proceedings pending against the appellants emanating from the FIR were quashed.

In Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Cr.) 102, wherein it has been held as under:-

“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 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 Criminal Procedure Code 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.”

This Court in Satya Narain v. State of Haryana, 2009 (3) R.C.R. (Cr.) 97 and Lal Chand v. The State of Haryana, 2009 (5) R.C.R. (Cr.) 838, has held that High Court is vested with unparalleled power to quash criminal proceedings at any stage to secure ends of justice. The parties have buried their hatchet, though at a belated stage, it was held, that if compromise is accepted and proceedings are quashed, it will go a long way, to create better relations between the parties. Therefore, it was observed that it is a fit case for quashing of FIR, conviction and sentence recorded by the trial Court.

In a decision, based on compromise, none of the parties is a loser. Rather, compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

Therefore, keeping in view the fact that the matter has been amicably settled and the law laid down by the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543, and Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another (supra) and by this Court in Sube Singh and another v. State of Haryana and another (supra), Satya Narain v. State of Haryana (supra), and Lal Chand

v. The State of Haryana (supra), this petition is allowed and cross case vide Rapat No.14 dated 28.2.2008 in case FIR No.27 dated 28.2.2007 registered for the offences under Sections 325, 323, 148 and 149 IPC and Section 25 of the Arms Act at Police Station Sadar Muktsar, District Sri Muktsar Sahib and impugned judgment dated 18.2.2012 (Annexure-P.2) passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib vide which the petitioners have been convicted and sentenced and all subsequent proceedings arising therefrom are hereby quashed.

January 20, 2015.

(Inderjit Singh)
Judge

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