

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-34905 of 2013

.....

Date of decision:12.2.2015

Mander Singh and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

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

Mr. S.S. Chandumajra, Deputy Advocate General, Punjab for
the respondent-State.

Mr. Jatin Lamba, Advocate for Mr. Vivek Goel, Advocate
for complainant-respondents No.2 to 4.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.27 dated 28.2.2007 registered for the offences under Sections 452, 324, 323, 379, 148 and 149 IPC at Police Station Sadar Muktsar, District Sri Muktsar Sahib, for setting aside the impugned judgment dated 18.2.2012 (Annexure-P.2) passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib and all consequential proceedings arising therefrom on the basis of compromise.

The above said FIR has been registered on the statement of complainant-Baldev Singh (respondent No.2). Cross-case arising out of the same FIR was also registered against the petitioners' party by respondents No.2 and 3 and now both the parties have resolved their dispute and have

decided to live peacefully. The cases were registered against both the parties due to party factions. After the trial learned Chief Judicial Magistrate, Sri Muktsar Sahib convicted the petitioners for the offences under Sections 452, 324, 323, 148 and 149 IPC vide impugned judgment dated 18.2.2012 (Annexure-P.2). The petitioners have filed appeal against the judgment of conviction, which is pending before the Court of learned Additional Sessions Judge, Sri Muktsar Sahib. Now both the parties have entered into compromise with the intervention of Panchayat and respectable persons of the society and they being of the same village want to live in peace and harmony and do not want to litigate against each other for the better future.

Therefore, they were directed to appear before learned trial Court for getting their statements recorded in support of the compromise. After doing the needful, learned Chief Judicial Magistrate, Sri Muktsar Sahib has sent his 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. It is further reported that accused Nachhattar Singh (petitioner No.5 herein) did not appear for recording his statement.

Learned Deputy Advocate General, Punjab, on instructions from the Investigating Officer and learned counsel for the complainant-respondents No.2 and 3 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 said FIR and the impugned judgment

passed by the learned trial Court in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the petitioners as well as learned Deputy Advocate General, Punjab and learned counsel for the complainant-respondents No.2 and 3 and have gone through the record.

Hon'ble Supreme Court in Dr. Arvin Barsaul etc. v. State of Madhya Pradesh and another, 2008 (2) R.C.R. (Cr.) 910, has held 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, Gwalior. 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.

This Court in Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Cr.) 102, has 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 unparallel 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 between the parties 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 FIR No.27 dated 28.2.2007 registered for the offences under Sections 452, 324, 323, 379, 148 and 149 IPC at Police Station Sadar Muktsar, District Sri Muktsar Sahib, the impugned judgment dated 18.2.2012 (Annexure-P2) passed by learned Chief Judicial Magistrate, Sri Muktsar Sahib and all consequential proceedings emanating from the above FIR are quashed/set aside on the basis of compromise, except Nachhattar Singh (petitioner No.5), as he has not appeared before the learned Chief Judicial Magistrate for recording his statement.

February 12, 2015.

(Inderjit Singh)
Judge

hsp