

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Criminal Misc.No.M-32535 of 2015 (O&M)

Date of decision: 19th October, 2015

Gher Singh

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr. Nandan Jindal, Advocate,
for the petitioner.

Mr. Brijesh Sharma and Mr. Arun Kumar, AAGs, Haryana,
for the respondent(s)-State.

Mr. Rajesh Dadwal, Advocate,
for respondent No.2.

INDERJIT SINGH, J.

Petitioner has preferred the instant petition under Section 482 Cr.P.C. with a prayer to allow the parties to compound the offences in view of compromise (Annexure P-3), as per Section 320 Cr.P.C.

The petitioner was held guilty for the commission of offences punishable under Sections 325 and 323 read with Section 34 IPC and sentenced to undergo rigorous imprisonment for a maximum period of 02 years under Section 325 IPC in case FIR No.369 dated 02.10.1997 registered at Police Station Ellenabad, District Sirsa, under Sections 323, 325, 34 IPC (section 364 IPC added lateron). The petitioner had filed appeal against the said

judgment of conviction and order of sentence which has been decided by this Court vide judgment dated 14.01.2015.

Notice of motion was issued.

Learned State counsel as well as learned counsel for respondent No.2 appeared and contested the instant petition.

Today, reply by way of affidavit of Kuldeep Singh Beniwal, HPS, Deputy Superintendent of Police, Ellenabad on behalf of respondent(s)-State has been filed. Same is taken on record. Copy has been supplied.

I have heard learned counsel for the petitioner, learned State counsel as well as learned counsel for respondent No.2 and have gone through the record.

From the record, this Court finds that as the appeal of the petitioner has already been decided by this Court vide judgment dated 14.01.2015, as stated in the petition, therefore, this Court has become functus officio. At the time of arguments, it has also been brought to the notice of this Court that the appeal filed before the Hon'ble Supreme Court has also been dismissed. As this Court has become functus officio, therefore, there is no question of reconsidering the matter for the purpose of grant of permission to compound the offence by this Court. Otherwise also, if the permission is granted then this Court is to set aside the judgment dated 14.01.2015 and also of the Hon'ble Supreme Court and have to acquit the accused as per provisions of Section 320 Cr.P.C.

Furthermore, perusal of Section 320 Cr.P.C. shows that the permission to compound the offences is to be granted by the Court where the case is pending or where the appeal is pending.

As already discussed, the appeal has already been decided by this Court, therefore, the instant petition, being not maintainable is dismissed.

19th October, 2015
mamta

(INDERJIT SINGH)
JUDGE