

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.

Crl.Misc. No.M-33906 of 2014
Date of Decision : 28.8.2015

Sukhwinder Singh @ Satwinder Singh and anotherPetitioners

Vs.

Kuldip SinghRespondent

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CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

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Present : Mr. S.C. Nagpal, Advocate for the petitioners.
Mr. Sunny Singla, Advocate for the respondent.

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1. To be referred to the Reporter or not ?
2. Whether the judgement should be reported in Digest ?

RAMESHWAR SINGH MALIK, J

CRM No.26483 of 2015

Applicants seek permission to place on record copy of compromise as Annexure C-1 and also the order dated 4.8.2015 passed by this court in RSA No.1387 of 2015 (Ajit Pal Singh and another Vs. Gurbachan Singh through his LRs Manjit Kaur and others) as well as the affidavits as Annexures C-2 and C-3.

Application is allowed as prayed for.

Documents are permitted to be placed on the record.

CRM stands disposed of.

CRM No.M-33906 of 2014

The petitioners have approached this Court by way of instant

petition under Section 482 of the Code of Criminal Procedure (for short 'Cr.P.C.') invoking its inherent jurisdiction for quashing of Complaint No.36 RT dated 21.10.2008 (Annexure P-1), Summoning Order dated 5.3.2014 (Annexure P-2), the order passed by the learned trial court declaring the petitioners as proclaimed offenders as well as consequential proceedings arising therefrom, on the basis of compromise (Annexure C-1).

Notice of motion was issued.

In compliance of the order dated 12.5.2015 the parties appeared before the Mediation and Conciliation Centre of this court. Consequently, the Mediation and Conciliation Centre has sent its report that the parties have entered into an amicable settlement by way of compromise Annexure C-1 dated 22.7.2015 which is available on record of the case. The compromise arrived at between the parties has been found to be a genuine one.

Learned counsel for the parties are further ad-idem that as a consequence of the above said settlement arrived at between the parties, RSA No.1387 of 2015 (Ajit Pal Singh and another Vs. Gurbachan Singh through his LRs Manjit Kaur and others) has also been disposed of by this court, vide order dated 4.8.2015.

Learned counsel for the petitioners submits that the parties have decided to bury the hatchet and are living peacefully. Learned counsel for the petitioners further submits that continuation of the impugned FIR and subsequent criminal proceedings arising therefrom, are liable to be quashed in the interest of justice.

Having heard the learned counsel for the parties and after going through the record of the case, this Court is of the considered opinion that it

is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice. It is so said because the parties have arrived at an out of Court settlement by way of compromise (Annexure C-1). The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

The abovesaid view taken by this Court also finds support from the judgments of the Hon'ble Supreme Court of India in **Shiji @ Pappu and others versus Radhika and another, 2012 (1) RCR (criminal) 9** and also from the larger Bench judgment of this Court in **Kulwinder Singh and others versus State of Punjab and another reported as 2007 (3) RCR (criminal) 1052**. The observations made by the Hon'ble Supreme Court in para 13 of the judgment in Shiji's case (supra), which can be gainfully followed in the present case, read as under:

“It is manifest that simply because an offence is not compoundable under Section 320 IPC is by itself no reason for the High Court to refuse exercise of its power under Section 482 Cr.P.C. That power can in our opinion be exercised in cases where there is no chance of recording a conviction against the accused and the entire exercise of a trial is destined to be an exercise in futility. There is a subtle distinction between compounding of offences by the parties before the trial Court or in appeal on one hand and the exercise of power by the High Court to quash the prosecution under Section 482 Cr.P.C. on the

other. While a Court trying an accused or hearing an appeal against conviction, may not be competent to permit compounding of an offence based on a settlement arrived at between the parties in cases where the offences are not compoundable under Section 320, the High Court may quash the prosecution even in cases where the offences with which the accused stand charged are non-compoundable. The inherent powers of the High Court under Section 482 Cr.P.C. are not for that purpose controlled by Section 320 Cr.P.C. Having said so, we must hasten to add that the plenitude of the power under Section 482 Cr.P.C. by itself, makes it obligatory for the High Court to exercise the same with utmost care and caution. The width and the nature of the power itself demands that its exercise is sparing and only in cases where the High Court is, for reasons to be recorded, of the clear view that continuance of the prosecution would be nothing but an abuse of the process of law. It is neither necessary nor proper for us to enumerate the situations in which the exercise of power under Section 482 may be justified. All that we need to say is that the exercise of power must be for securing the ends of justice and only in

cases where refusal to exercise that power may result in the abuse of the process of law. The High court may be justified in declining interference if it is called upon to appreciate evidence for it cannot assume the role of an appellate court while dealing with a petition under Section 482 of the Criminal Procedure Code. Subject to the above, the High Court will have to consider the facts and circumstances of each case to determine whether it is a fit case in which the inherent powers may be invoked.”

The law laid down by the Hon'ble Supreme Court in **Shiji's** case (supra) has been further reiterated by the Hon'ble Supreme Court in its later judgments including in the cases of **Jayrajsinh Digvijaysinh Rana v. State of Gujarat and another, 2012 (12) SCC 401, Gold Quest International Private Limited v. State of Tamil Nadu & Ors., 2014 (4) RCR (Crl) 206, Manohar Singh v. State of Madhya Pradesh and another, 2014 AIR (SC) 3649 and Narinder Singh and others v. State of Punjab and another, 2014 (6) SCC 466.**

Reverting back to the facts of the present case, this Court has satisfied itself that the compromise arrived at between the parties is a genuine one. In view of the genuine compromise arrived at between the parties, this Court feels no hesitation to conclude that the continuation of the prosecution any further would be nothing but sheer abuse of the process of law. It would result in wastage of valuable time of the Court because no chance of conviction is left.

Considering the peculiar facts and circumstances of the case

noted above, coupled with the reasons aforementioned and to secure the ends of justice, FIR No.Complaint No.36 RT dated 21.10.2008 (Annexure P-1), Summoning Order dated 5.3.2014 (Annexure P-2), the order passed by the learned trial court declaring the petitioners as proclaimed offenders as well as consequential proceedings arising therefrom, on the basis of compromise (Annexure C-1) are ordered to be quashed, however, qua the petitioners only.

Resultantly, with the abovesaid observations made, instant petition stands allowed.

28.8.2015
GS

(RAMESHWAR SINGH MALIK)
JUDGE