

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-36997 of 2013 (O&M)

.....

Date of decision:7.12.2015

Gurcharan Singh and another

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

.....

Present: Mr. Vipin Mahajan, Advocate for the petitioners.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

Mr. Amit Gupta, Advocate for the complainant-respondents
No.2 to 7.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. for quashing of FIR No.122 (Annexure-P.1) dated 29.8.2002 registered for the offences under Sections 420, 466, 467, 468, 471 and 120-B at Police Station Ghuman, Tehsil Batala, District Gurdaspur and the judgment of conviction and order of sentence dated 11.7.2012 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Batala on the basis of compromise/affidavit of the complainant dated 28.10.2013 (Annexure-P.6) and all subsequent proceedings arising therefrom.

The FIR has been registered against the respondents by complainant-respondent No.2 Kulwant Singh on the allegations that by

hatching conspiracy the petitioners have cheated him and respondents No.3 to 7. The complainant along with five other persons have purchased the land from the petitioner No.1 and have also got the sale deed registered in the office of Sub-Registrar, Sri Horgobindpur, but later on they found that the land sold to them by Gurcharan Singh was already mortgaged with the Bank and Ranjit Singh-petitioner No.2, who is working as Patwari, in connivance with Gurcharan Singh have sold the above said land to the complainant-respondents. The trial in the case ensued and the petitioners were convicted and sentenced vide judgment dated 11.7.2012 passed by learned Judicial Magistrate Ist Class, Batala. Now with the intervention of the respectable persons, the matter has been amicably sorted out between both the parties and compromise has been entered into.

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned trial Court for getting their statements recorded in support of the compromise. After doing the needful, learned Judicial Magistrate Ist Class, Batala has sent his report dated 30.11.2015 submitting that the compromise arrived at between the parties is genuine and voluntary and it was assured before hand that the parties are giving their statements without undue influence, coercion or threat.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer and learned counsel for complainant 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 FIR 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 Assistant Advocate General, Punjab and learned counsel for the complainant and have gone through the record.

Hon'ble Supreme Court in Dr. Arvind 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. The same view has been reiterated by the Hon'ble Supreme Court in Bharti v. State of Haryana and another, 2014(2) R.C.R.(Cr.) 133 and Padmalayan and another v . Sarasan and another, 2014 (1) R.C.R.(Cr.) 868.

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 both 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; Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another (supra); Bharti v. State of Haryana and another(supra) and Padmalayan and another v . Sarasan 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. FIR No.122 (Annexure-P.1) dated 29.8.2002 registered for the offences under Sections 420, 466, 467, 468, 471 and 120-B at Police Station Ghuman, Tehsil Batala, District Gurdaspur and the judgment of conviction and order of sentence dated 11.7.2012 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Batala whereby the petitioners have been convicted and sentenced as well as all other subsequent proceedings arising therefrom are quashed/set aside on the basis of compromise/affidavit dated 28.10.2013 (Annexure-P.6).

December 7, 2015.

(Inderjit Singh)
Judge

hsp