

In the High Court of Punjab and Haryana at Chandigarh

.....

Criminal Misc. No.M-42026 of 2013

.....

Date of decision:26.2.2015

Anil Kumar alias Sheru

.....Petitioner

v.

State of Punjab and another

.....Respondents

....

Present: Mr. Sanjay Gupta, Advocate for the petitioner.

Mr. Amarinder Singh Klar, Assistant Advocate General, Punjab
for the respondent-State.

None for complainant-respondent No.2.

.....

Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.19 dated 3.5.2008 (Annexure-P.1) registered for the offences under Sections 354 and 457 IPC at Police Station City Hajipur, District Hoshiarpur, impugned judgment and order dated 5.9.2012 (Annexure-P.3) and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.2).

The FIR has been registered on the statement of complainant-Reena Kumari on the allegations that the accused-petitioner outraged her modesty. After the trial, the petitioner was convicted and sentenced vide impugned judgment of conviction and the order of sentence dated 5.9.2012

passed by learned Judicial Magistrate Ist Class, Mukerian, to undergo rigorous imprisonment for two years for the offence under Section 457 and one year for the offence under Section 354 IPC and also sentenced to pay a fine of ₹1,000/- and ₹500/- respectively and the fine was paid. The petitioner then filed an appeal against the judgment and order of the learned trial Court before the learned Sessions Judge, Hoshiarpur. Now during the pendency of the appeal, the matter has been amicably settled between the parties with the intervention of respectable persons and parents of the complainant and they have entered into a compromise.

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, Mukerian, has sent her report dated 18.2.2015 submitting that the compromise arrived at between the parties is genuine and has been effected between the parties of their own free will and without pressure from any quarter.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer admits the factum of compromise and submits 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 petitioner as well as learned Assistant Advocate General, Punjab and have gone through the record.

The 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.

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, 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. FIR No.19 dated 3.5.2008 (Annexure-P.1) registered for the offences under Sections 354 and 457 IPC at Police Station City Hajipur, District Hoshiarpur and all subsequent proceedings arising out of the same are hereby quashed. The impugned judgment of conviction and order of sentence dated 5.9.2012 (Annexure-P.3) passed by learned Judicial Magistrate Ist Class, Mukerian, vide which the petitioner has been

[5]

convicted and sentenced for the offences under Sections 354 and 457 IPC
are set aside on the basis of compromise.

February 26, 2015.

(Inderjit Singh)
Judge

hsp