

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Criminal Misc. No.M-43295 of 2013
Date of Decision: 20th February, 2015

Davinder Kaur @ Preeti Verma and othersPetitioners

Versus

Karamjit Singh and anotherRespondents

CORAM: Hon'ble Mrs. Justice Daya Chaudhary

1. Whether reporters of local newspapers may be allowed to see judgment?
2. To be referred to reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. P.S. Sekhon, Advocate
for the petitioners.

Mr. Jagpal Singh, Advocate
for respondent No.1.

Mr. T.N. Sarup, Addl. A.G., Punjab.

DAYA CHAUDHARY, J.(Oral)

The present petition has been filed under Section 482 Cr.P.C. on behalf of petitioners, namely, Davinder Kaur @ Preeti Verma, Tarsem Lal Verma, Tinku Verma, Mohan Lal and Seeto for quashing of Criminal Complaint No.26 dated 05.09.2007, registered under Sections 420, 495, 494, 496, 120B IPC as well as judgment dated 08.12.2012 passed by the JMFC, Malerkotla whereby the petitioners have been convicted. During the pendency of the appeal before the Addl. Sessions Judge, Sangrur, a compromise has been arrived at between the parties.

Respondent No.1-Karamjit Singh was married with petitioner No.1 on 02.05.2004. Thereafter, some differences arose between them

and a complaint was lodged by petitioner No.1 against respondent No.1 and other family members. The petitioners faced trial and ultimately, vide judgment dated 08.12.2012 passed by the Judicial Magistrate Ist Class, Malerkotla, they were convicted for offence punishable under Section 495 read with Section 120B IPC and sentenced to undergo rigorous imprisonment for two years with fine of ₹ 5000/- each with default clause.

Aggrieved by the said judgment of conviction and order of sentence, the petitioners preferred an appeal which is still pending before the Additional Sessions Judge, Sangrur. During pendency of said appeal, a compromise has been arrived at between the parties and thereafter, the present petition has been filed for quashing of criminal proceedings initiated against the petitioners.

Learned counsel for the petitioners submits that there were total five accused who are present petitioners. But during the pendency of this petition, petitioner No.2, namely, Tarsem Lal Verma has expired and now four petitioners are there. Learned counsel further submits that a compromise has been arrived at between the petitioners and the complainant has no objection in quashing of the criminal complaint and other proceedings arising therefrom.

Learned counsel for respondent No.1 has also affirmed the factum of compromise.

Notice of motion was issued on 18.12.2013 and vide order dated 16.05.2014, the parties were directed to appear before the Lower Appellate Court on 30.05.2014 for recording of their statements with regard to compromise. The Lower Appellate Court was also directed to send a report as to whether the compromise arrived at between the parties is genuine and without any pressure from either side.

In response to the aforesaid direction, the parties have appeared before the Additional Sessions Judge, Sangrur and accordingly their statements were recorded. A report has been sent by the Additional Sessions Judge, Sangrur, wherein, the factum of compromise has been affirmed and it has also been stated that the parties shall remain bound by the compromise Ex. PX. The parties to the dispute have specifically stated in their statements that the compromise has been arrived at between them and now they do not want to proceed further with the proceedings. The complainant has specifically stated in his statement that he has no objection in allowing the appeal or in acquittal of the accused and has also stated that his marriage with Davinder Kaur @ Preeti Verma has already been declared nullity on the basis of compromise in Lok Adalat. It has also been mentioned therein that the compromise is as per their free will and without any pressure from either side.

On perusal of the statements recorded by the Additional Sessions Judge, Sangrur, it is clear that the dispute between the parties has been settled.

Since the dispute between the parties has been settled by way of compromise; the complainant has no objection in quashing of the criminal proceedings including the judgment of conviction passed by the trial Court on the basis of compromise.

A larger Bench of this Court in ***Kulwinder Singh vs State of Punjab 2007(3) RCR Criminal 1052*** has also observed that the proceedings can be quashed even in case of non-compoundable offences, in case, the compromise is there between the parties. The observations of this Court are reproduced as under :-

“ Criminal Procedure Code, Section 320(9) – Criminal Procedure Code, Section 482 – Compounding of offences which are non-compoundable under Section

320(9) Cr.P.C. - Offence non-compoundable, but parties entering into compromise-High Court has power under Section 482 Cr.P.C allow the compounding of non-compoundable offence and quash the prosecution where the High Court felt that the same was required to prevent the abuse of the process of any court or to otherwise secure the ends of justice – This power of quashing is not confined to matrimonial disputes alone.”

The Hon'ble Apex court in ***Gian Singh vs. State of Punjab and another 2012(4) RCR (Criminal) 543*** has laid down that compounding of offence and quashing of criminal proceedings are two separate things and are not interchangeable. It has also been mentioned that two powers are distinct and different but ultimate consequence may be the same. It has also been held that where the offender and victim have settled their dispute, the High Court in exercise of its inherent power under Section 482 Cr.P.C is competent to quash the criminal proceedings even in case of non-compoundable offences. No doubt, the powers under Section 482 Cr.P.C are to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The Apex Court has held as under :-

“ It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences,

power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceedings or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of

offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.”

The aforesaid decision in *Gian Singh's case (supra)* finds support with the view taken by a five-Judge Bench of this Court in *Kulwinder Singh's case (supra)*.

Keeping in view the statements of the parties as well as the fact that now the complainant has no objection in quashing of the criminal proceedings arising therefrom, continuation of proceedings would not only be mere wastage of the time of the Court but it would also not be in the interest of both the parties. This Court has power to quash the criminal proceedings even in non-compoundable offences on the basis of compromise.

While exercising powers under Section 482 Cr.P.C. as well as keeping in view the interest of the parties and also the fact that the compromise has been arrived at between the parties as per their free will and there is no pressure from either side, the present petition is allowed and the criminal complaint No.26 dated 05.09.2007, registered under Sections 420, 495, 494, 496, 120B IPC as well as judgment dated 08.12.2012 passed by the JMIC, Malerkotla qua, petitioners, namely, Davinder Kaur @ Preeti Verma, Tinku Verma, Mohan Lal and Seeto are hereby quashed.

The petitioners No. 1, 3 to 5 are already on bail and are acquitted of the charges accordingly.

20.02.2015
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(DAYA CHAUDHARY)
JUDGE