

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM-M- 43551 of 2013

Date of decision: September 07, 2015

Aniljeet Singh

----Petitioner(s)

V/s

State of Punjab and others

-----Respondent(s)

CORAM:- HON'BLE MR. JUSTICE HARI PAL VERMA

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. Shekhar Verma, Advocate for the petitioner.

Mr. P.S. Madahar, AAG, Punjab.

Mr. Ram Parkash Bhangu, Senior Manager Legal,
authorized representative of respondent No.2

HARI PAL VERMA, J. (Oral)

Prayer made in the present petition filed under Section 482 Cr.P.C. 1973, is for quashing of the Criminal Complaint No. 641/1, dated 24.12.2003(Annexure P-1), summoning order dated 26.02.2004 (Annexure P-2), order dated 05.11.2011(Annexure P-3) and all proceedings emanating therefrom on the basis of compromise arrived at between the petitioner/accused and respondent No.2/complainant.

Learned counsel for the petitioner submits that vide order dated 05.11.2011 passed by Illaqa Judicial Magistrate, Ludhiana, the petitioner has wrongly been declared as Proclaimed Offender. In support of his arguments, he relies upon a judgment in the case of '*Balbir*

Singh Vs. State of Punjab and another, 2011(3) R.C.R. (Criminal) 234', wherein while quashing of the order of Proclaimed Offender, which was civil in nature, the Court has observed as under:-

“10. In the present case also a civil suit is pending which the complainant/respondent No. 2 in terms of compromise deed dated 12.08.2010 (annexure P-1) has agreed to withdraw. Therefore, the matter being civil in nature and also the fact that the matter has been compromised between the petitioner and the complainant in terms of the compromise deed dated 12.8.2010 (Annexure P-1) and the complainant has also agreed to withdraw the civil suit it would be just and expedient to terminate the proceedings by quashing the F.I.R. As the dispute even, if any, has been amicably resolved”

Learned counsel for the petitioner further submits that during the pendency of the present petition, the matter has been compromised between the parties.

Mr. Ram Parkash Bhangu, Senior Manager Legal, present in person, as authorized representative of respondent No.2, i.e. M/s. Nahar Industrial Enterprises Ltd., Proprietor of M/s. Nahar Fabrics, Focal Point, Ludhiana, admitted the factum of compromise entered between the parties. He has been authorized by the company to execute the settlement/agreement dated 06.12.2013.

Taking into the consideration that the parties have arrived at a compromise, reliance has been placed on the judgment of a Co-ordinate Bench of this Court in the case of '***Satinder Singh Vs. The State of U.T. Chandigarh and another, 2011(2) R.C.R. (Criminal) 89'***. This Court in view of the broad guidelines which have been laid down by the Full Bench of this Court in the case of '***Kulwinder Singh and***

others Vs. State of Punjab and another, 2007(3) R.C.R. (Criminal), 1052 and in the light of Original Settlement Agreement dated 06.12.2013 (Annexure P-4) quashed the complaint when parties entered into compromise. The relevant portion of the judgment reads as under:-

“26. In Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others, (1980)1 SCC 63, Hon'ble Krishna Iyer, J. aptly summoned up the essence of compromise in the following words :- “The finest hour of justice arrived propitiously when parties, despite falling apart, bury the hatchet and weave a sense of fellowship of reunion.”

27. The power to do complete justice is the very essence of every judicial justice dispensation system. It cannot be diluted by distorted perceptions and is not a slave to anything, except to the caution and circumspection, the standards of which the Court sets before it, in exercise of such plenary and unfettered power inherently vested in it while donning the cloak of compassion to achieve the ends of justice. No embargo, be in the shape of Section 320(9) of the Cr.P.C., or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.

28. The compromise, in a modern society, is the sine qua non of harmony and orderly behaviour. It is the soul of justice and if the power under Section 482 of the Cr.P.C. is used to enhance such a compromise which, in turn, enhances the social emity and reduces friction, then it truly is finest hour of justice”. Disputes which have their genesis in a matrimonial discord, landlord-tenant matters, commercial transactions and other such matters can safely be dealt with by the Court by exercising its powers under Section 482 of the Cr.P.C. in the event of a compromise,

but this is not to say that the power is limited to such cases. There can never be any such rigid rule to prescribe the exercise of such power, especially in the absence of any premonitions to forecast and predict eventualities which the cause of justice may throw up during the course of a litigation.”

The ratio of the Full Bench judgment is a special reference which has been made to the offences against human body other than murder and culpable homicide, where the victim dies in the course of transaction would fall in the category where compounding may not be permitted. Heinous offences like highway robbery, dacoity or a case involving clear-cut allegations of rape should also fall in the prohibited category.

The Hon'ble Supreme Court in the case of **Madan Mohan Abbot vs. State of Punjab**, 2008(2) RCR (Criminal) 429 has examined a case where quashing was sought of an FIR under Section 406 IPC being non-compoundable. The Hon'ble Supreme Court has held that :-

“1. No useful purpose would be served in continuing with the proceedings in the light of the compromise – There was no possibility of conviction.

2. It is advisable that in the disputes where question involved is of purely personal nature and no public policy is involved – Court should ordinarily accept the compromise. 3. Keeping the matter alive with no possibility of conviction is a luxury which the Courts, grossly overburdened as they are, cannot afford.”

Consequently, in view of the judgment of the Hon'ble Supreme Court in the case of ***Madan Mohan Abbot vs. State of Punjab (supra)*** and taking into consideration the law laid down by the Full

Bench of this Court in the case of **Kulwinder Singh and others vs. State of Punjab and another (supra)**, Criminal Complaint No. 641/1, dated 24.12.2003(Annexure P-1), pending before the Illaqa Judicial Magistrate, Ludhiana, with all consequential proceedings arising therefrom qua petitioner are quashed. Accordingly, summoning order dated 26.02.2004 (Annexure P-2) and Order dated 05.11.2011 (Annexure P-3) passed by Illaqa Judicial Magistrate, Ludhiana, declaring the petitioner Proclaimed Offender, are hereby set aside.

Accordingly, the present petition stands disposed of .

September 07, 2015
Anjal

(HARI PAL VERMA)
JUDGE