

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-41725 of 2014

.....

Date of decision:16.2.2015

Nand Lal and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

....

Present: Mr. Surinder Garg, Advocate for the petitioners.

Mr. Varun Sharma, Assistant Advocate General, Punjab
for the respondent-State.

Mr. Lalit Sharma, Advocate for complainant-respondent
No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.36 dated 18.3.2011 (Annexure-P.1) registered for the offences under Sections 326, 325, 324, 323 and 34 IPC at Police Station Gidderbaha, District Sri Muktsar Sahib and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.5) and in view of the compromise the judgment dated 23.7.2014 (Annexure-P.3) vide which the petitioners have been convicted for the offences under Sections 326, 324 and 323 IPC be set aside.

The FIR has been registered on the statement of complainant-Sagar on the allegations that the accused-petitioners attacked him and inflicted injuries. After trial, the petitioners were convicted for the offences

under Sections 326, 324 and 323 IPC and sentenced to undergo maximum sentence of two years vide judgment of conviction and order of sentence dated 23.7.2014 passed by learned Judicial Magistrate Ist Class, Gidderbaha. Thereafter, the petitioners filed appeal against the impugned judgment and order before the learned Sessions Judge, Sri Muktsar Sahib, which is pending. During the pendency of appeal, with the intervention of the respectable persons of both the parties on 25.10.2014, a written compromise has been effected between the parties and in view of the abovesaid compromise, respondent No.2 does not want to proceed with the case.

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 District & Sessions Judge, Sri Muktsar Sahib, before whom the appeal is pending, has sent his report dated 28.1.2015 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.

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. I have gone through this judgment, wherein the First Appellate Court rejected the compromise petition stating that the offence under Section 498-A IPC is not liable of compromise. The appellants being aggrieved from the said judgment of the

First Appellate Court filed three separate petitions under Section 482 Criminal Procedure Code before the High Court for quashing the proceedings pending in the Court of Second Additional District & Sessions Judge, Gawalior. The High Court also declined to interfere in the matter. The appellants being aggrieved by the impugned judgment of the High Court have preferred the appeal. The Hon'ble Supreme Court has held that in the peculiar facts and circumstances of the case and in the interest of justice, continuation of criminal proceedings would be an abuse of the process of law. Therefore, in exercise of power under Article 142 of the Constitution, the criminal proceedings pending against the appellants emanating from the FIR were 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

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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.36 dated 18.3.2011 (Annexure-P.1) registered for the offences under Sections 326, 325, 324, 323 and 34 IPC at Police Station Gidderbaha, District Sri Muktsar Sahib and all subsequent proceedings arising out of the same are hereby quashed. The impugned judgment of conviction and order of sentence dated 23.7.2014 (Annexure-P.3) passed by learned Judicial Magistrate Ist Class, Gidderbaha, vide which the petitioners have been convicted and sentenced for the offences under Sections 326, 324 and 323 IPC are set aside on the basis of compromise.

February 16, 2015.

(Inderjit Singh)
Judge

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