

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

**Criminal Misc. No. M-9450 of 2015
Date of Decision:-29.7.2015**

Mangal Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

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. A.S. Manaise, Advocate
for the petitioner.

Mr. Sultan Singh Gill, Deputy A.G., Punjab.

HARI PAL VERMA J.

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of FIR No.4 dated 8.1.2008, registered under Sections 304-A, 279, 337 and 427 IPC, registered at Police Station Sri Hargobindpur, District Batala, District Gurdaspur (Annexure P-1), as well as quashing of judgment and order dated 23.4.2013 (Annexure P-2) passed by learned Judicial Magistrate Magistrate 1st Class, Batala, whereby petitioner has been convicted for offence under Sections 304-A and 337 IPC, on the basis of compromise dated 5.3.2015 (Annexure P-4).

As per the prosecution, the present case was registered on

the basis of statement of Malwinder Singh son of Surjit Singh, Caste Jatt, resident of Kot Todar Mal, Police Station Qadian. As per the case of the prosecution, on 8.1.2008, the complainant, who is an agriculturist had gone to Sri Hargobindpur on his motor-cycle along with his father for some domestic work. At about 12.30 pm when they were coming back to their village and were on the road going to village Khokarwal, one Maruti Car bearing No.HR-51-N-7194 came and stopped near them. The car was being driven by his cousin Partap Singh and Harbans Lal was also sitting in the car. They told them that they had gone to Delhi and were coming back. Meanwhile, from the side of Harchowal, one truck bearing No.RJ-31J-3741 came at a high speed and struck against the car of Partap Singh. The complainant and his father rescued Partap Singh and Harbans Singh. However, the truck driver fled away from the spot after leaving his truck at the spot. The name of the truck driver was later on learnt to be Mangal Singh son of Chanan Singh, Jatt, resident of Dulluana. The police party came from the side of Harchowal and HC Gurmukh Singh brought the injured to the Harchowal Hospital and from there they were referred to the Civil Hospital, Batala in ambulance. However, Partap Singh succumbed to injuries and died on the way, whereas Harbans Lal was admitted in the hospital.

After recording the statements, the investigation was carried out and challan was prepared and presented in the Court.

The accused was supplied copy of police report under Section 173 Cr.P.C. along with documents annexed therewith, as envisaged under Section 207 Cr.P.C.

On the basis of final report, the matter was scrutinized and

prima facie case punishable under Sections 304-A, 279, 337 and 427 IPC was made out and accused was charge-sheeted accordingly. The trial Court vide judgment dated 23.4.2013 held the accused guilty for offence punishable under Sections 304-A and 337 IPC. Since the offence under Section 304-A IPC is an exaggerated offence of negligence, which implicitly including the offence under Section 279 IPC, therefore, the accused was not convicted under Section 279 IPC. Similarly, offence under Section 427 IPC is anti-theses of Section 304-A IPC and no damage report of the ill fated car has been proved by the prosecution, hence, accused was acquitted of the charge framed under Section 427 IPC. The accused was sentenced for commission of offence punishable under Section 304-A IPC for rigorous imprisonment of two years along with fine of Rs.1000/-. In default, the accused was to further undergo rigorous imprisonment for one month. Similarly, for commission of offence punishable under Section 337 IPC, the accused was awarded sentence of rigorous imprisonment for six months along with fine of Rs.500/- and in default of payment of fine, he was to further undergo rigorous imprisonment for 15 days.

The judgment of conviction and sentence awarded by learned Judicial Magistrate 1st Class, Batala dated 23.4.2013 was challenged by way of appeal before the learned Sessions Judge, Gurdaspur. While the appeal was pending before the learned Sessions Court, the parties have entered into the compromise dated 5.3.2015.

It is in the aforesaid circumstances, the present petition has been filed seeking quashing of FIR No.4 dated 8.1.2008, registered under Sections 304-A, 279, 337 and 427 IPC, registered at Police Station Sri

Hargobindpur, District Batala, District Gurdaspur, as well as quashing of judgment and order dated 23.4.2013 passed by learned Judicial Magistrate Magistrate 1st Class, Batala, whereby petitioner has been convicted for offence under Sections 304-A and 337 IPC.

This Court vide order dated 25.3.2015 directed the parties to appear before the Illaqa Magistrate for recording their respective statements with regard to the compromise and pursuant thereto the parties have appeared before the learned Illaqa Magistrate to get their statements recorded. The statements of the parties were recorded. The statement of Malwinder Singh complainant reads as under :-

“Stated that the FIR No.04 dated 08.1.2008 under Sections 304-A, 279, 337, 427 IPC was registered against accused Mangal Singh at Police Station Sri Hargobindpur on my statement. Now the matter has been compromised, with the intervention of respectable and I do not want to proceed against him. Now, I have no grudge against the accused person. I have suffered this statement without any coercion, pressure, or threat and with my own sweet will. I have no objection if the present FIR be quashed.”

The statements of complainant Malwinder Singh son of Surjit Singh and Ramandeep Kaur widow of Partap Singh were recorded and they have admitted the factum of compromise and do not want to proceed against the accused any more. The statements are stated to have been suffered without any pressure, coercion or threat and they have no objection if the FIR is quashed.

As directed by this Court vide order dated 25.3.2015, the learned Judicial Magistrate 1st Class, Batala after recording the

statements of the parties, has forwarded a report dated 16.7.2015 and has held that the compromise entered into between the parties is voluntarily and without any influence, pressure or threat.

Learned counsel for the petitioner submits that since the parties have entered into compromise during the pendency of the appeal, pending before the Sessions Court, the FIR as well as the judgment of conviction passed by learned Judicial Magistrate 1st Class, Batala dated 23.4.2013 are liable to be set aside.

He further submits that even if the offence is non-compoundable, the FIR can be quashed in exercise of powers under Section 482 Cr.P.C. In support of this contention, he has relied upon **Anil Kumar vs. State of Punjab and another** 2009(3) RCR (Criminal 258).

In the aforesaid case, this Court has quashed the FIR on the basis of compromise and relevant para No.5 of the same read as under :-

“5. In view of the compromise arrived at between the parties, as the trial is likely to result into acquittal, continuance of further proceedings against the present petitioner would be an abuse of process of law. Moreover, while discussing the scope of quashing proceedings on the basis of compromise by this Court in exercise of powers under Section 482 Criminal Procedure Code even in non-compoundable offences, the larger Bench of this Court in ***Kulwinder Singh and others v. State of Punjab and another, 2007(3) RCR (Crl.) 1052 (P & H)*** has held that the Court has wide powers to quash the proceedings even in non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code in order to prevent the abuse of law and to secure the ends of

justice. This view has further been supported by Hon'ble the Apex Court in ***Khurshid and another v. State of U.P. and another, 2007(4) RCR (Crl.) 495 : 2007(5) RAJ 342 (SC)***, and permission was granted to compound the offence under Section 325 Criminal Procedure Code.”

Similarly, learned counsel for the petitioner has placed reliance to the judgment passed by this Court in **Sube Singh and another vs. State of Haryana and another** 2013(4) RCR (Criminal) 102 to state that this Court has power to compound the offence even at the appellate stage. In the case of Sube Singh (supra) though the Additional Chief Judicial Magistrate has convicted the accused for offence under Sections 420, 467, 468 read with Section 120_B IPC and appeal against the order of conviction was pending before the Sessions Court, it is during the pendency of the appeal before the Sessions Court, the matter was compromised between the parties. Further, this Court held that the High Court vested unparallel power to quash criminal proceedings at any stage to secure the ends of justice. Accordingly, the petition was allowed and the offences were compounded. This Court in Sube Singh's case (supra) has observed as under :-

“16. As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code to quash the criminal proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has been held guilty and convicted by the trial Court, we find that in ***Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another, 2008(2) RCR (Criminal) 910 (2008) 5 SCC 794***, the unfortunate

matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498-A Indian Penal Code and sentenced to 18 months' imprisonment and his appeal was pending before the first appellate Court. The Apex Court quashed the criminal proceedings keeping in view the peculiar facts and circumstances of the case and in the interest of justice observing that "continuation of criminal proceedings would be an abuse of the process of law" and also by invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.

17. The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case."

In the light of the Sube Singh's case (supra), the present petition is allowed. The FIR No.4 dated 8.1.2008, registered under Sections 304-A, 279, 337 and 427 IPC, registered at Police Station Sri Hargobindpur, District Batala, District Gurdaspur (Annexure P-1) is quashed. Accordingly, the judgment and order dated 23.4.2013

(Annexure P-2) passed by learned Judicial Magistrate Magistrate 1st Class, Batala, whereby petitioner has been convicted for offence under Sections 304-A and 337 IPC, is set aside in the light of the compromise dated 5.3.2015 (Annexure P-4). The consequential proceedings arising therefrom are hereby quashed qua petitioner subject to payment of costs of Rs.10,000/- to be deposited with the Punjab State Legal Services Authority, Chandigarh, receipt of which shall be submitted to the Registry of this Court within one month from today and the Registry shall tag the same with the case file.

July 29, 2015
Vijay Asija

(HARI PAL VERMA)
JUDGE