

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

Crl. Appeal S-3751-SB of 2013(O&M)

Date of Decision : March 31, 2016

Niranjan Singh and another

.....Appellants

VERSUS

State of Punjab and another

.....Respondents

**CORAM: HON'BLE MR. JUSTICE T.P.S. MANN
HON'BLE MR. JUSTICE RAMENDRA JAIN**

Present : Mr. Jagjit Singh, Advocate
for the applicants/appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

Respondent No.2/complainant-Joginder Kaur in
person.

T.P.S. MANN, J.

The appellants alongwith Manjit Singh were tried for committing the offences punishable under Sections 364/406/420 IPC and Section 24 of the Immigration Act. Vide judgment and order dated 2.9.2013, learned Additional Sessions Judge, Kapurthala acquitted accused-Manjit Singh of the charges against him. The appellants were also acquitted under Sections 364/406 IPC and Section 24 of the Immigration Act. However, they were convicted under Section 420 IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 1,00,000/- each and in default thereof, to further undergo rigorous imprisonment for a period of one year.

Aggrieved of their conviction and sentences, the appellants filed the aforementioned appeal in which they are

currently on bail.

The case of the prosecution, in brief, is that Niranjn Singh-appellant represented to complainant Joginder Kaur-respondent No.2 that he could send her son Gurpreet Singh abroad for a sum of Rs. 6,50,000/-. On 27.11.2004, an amount of Rs.6,50,000/- alongwith passport of Gurpreet Singh was handed over to the appellants, who promised to send Gurpreet Singh to Spain. Both the appellants made Gurpreet Singh board flight at Delhi but, thereafter, his whereabouts were not known. On 11.7.2005 and 21.7.2005, the complainant alongwith Panchayat approached the appellants but they failed to return the amount and also did not disclose about the whereabouts of Gurpreet Singh. Accordingly, FIR No. 127 dated 4.8.2005 under Sections 406/420/364 IPC and Section 24 of the Immigration Act was registered against the appellants and Manjit Singh at Police Station Bholath, Kapurthala.

During the pendency of the appeal, both the appellants filed CRM 17820 of 2015 under Section 482 read with Section 320 Cr.P.C. for compounding the offence on the ground that the complainant had already entered into a compromise with them. Copy of the compromise deed dated 9.2.2015 executed between the parties was appended with the application as Annexure A-1. In order to establish the identity of the complainant, copy of her aadhar card was attached as Annexure A-2. It was also stated therein that the complainant had filed Criminal Appeal S-3378-SB of 2013 against the appellants which stood withdrawn on 24.4.2015 in view of the compromise arrived at between the parties. It was also pleaded that as per the compromise, the appellants have to pay a sum of Rs. 7,00,000/- to the complainant as full and final settlement of all her claims and the said amount stood deposited in the joint account of Balvir

Singh, Sarpach of village Nangal Lubana and Sarabjit Singh, Sarpanch of village Narangpur in the Begowal branch of Axis Bank. According to the appellants, the offence under Section 420 IPC for which the appellants stood convicted, is lawfully compoundable under Section 320 Cr.P.C. and, therefore, the parties may be permitted to compound the offence.

Upon notice, respondent No.2-complainant Joginder Kaur appeared in person. However, on request made by learned counsel for the appellants so as to enable them to bring the settled amount before this Court for being handed over to the complainant, the case was adjourned to 19.8.2015. On the adjourned date, learned counsel for the appellants handed over demand draft in the name of complainant Joginder Kaur for an amount of Rs. 5,00,000/- which she accepted. She also informed the Court that the remaining amount i.e. Rs. 2,00,000/- had already been received by her in cash from the trial Court where it stood deposited by the appellants by way of fine at the time of their conviction and sentence. However, keeping in view the fact that the complainant had lost her young son and the amount of Rs.7,00,000/- already received by her pursuant to the compromise, was practically the amount handed over by her to the appellants for sending her son Gurpreet Singh abroad, the Court insisted upon the appellants to pay the complainant another sum of Rs. 10,00,000/- so as to compensate her for the loss of her young son before any permission was granted to the parties to compound the offence. On the next date of hearing, complainant Joginder Kaur apprised the Court that in all, she has received an amount of Rs.9,00,000/- i.e. Rs. 2,00,000/- which she had collected from the trial Court after the same had been deposited by the appellants and Rs. 5,00,000/- by way of bank draft from the appellants besides Rs.2,00,000/- in cash. The

Court was still not satisfied with the amount which the appellants had paid to the complainant and, accordingly, directed the counsel for the appellants to seek further instructions. On 19.2.2016, learned counsel for the appellants informed the Court that his clients were willing to pay another amount of Rs. 5,00,000/- to complainant Joginder Kaur as full and final settlement in order to compensate her for the loss of her young son and for compounding the offence. However, time was sought so as to enable the appellants to arrange the said amount.

Pursuant to the above, learned counsel for the appellants has handed over demand draft No. 003002 dated 30.3.2016 for a sum of Rs. 5,00,000/-, drawn at Axis Bank Limited to complainant Joginder Kaur. On receiving the said draft, the complainant has got recorded her statement to the effect that in all, she has received an amount of Rs.14,00,000/- and, accordingly, all her claims against the appellants stands satisfied. She has also stated that as the matter between the parties stood amicably resolved, she has no objection if the matter is allowed to be compounded and its benefit extended to the appellants.

The offence under Section 420 IPC is lawfully compoundable. The only rider is that before the offence is compounded, the Court has to be satisfied that the compromise is in the best interest of the parties, especially the complainant.

Complainant Joginder Kaur had paid a sum of Rs.6,50,000/- to the appellants so as to arrange for sending her son Gurpreet Singh abroad. Neither her son could reach the foreign land nor his whereabouts could be known. For the last more than ten years, the complainant is practically running from pillar to post so as to get justice. Finally, the appellants agreed to settle the matter with her by paying consolidated amount of Rs.7,00,000/- to her. The said amount included Rs. 2,00,000/-

which stood deposited by the appellants with the trial Court as fine to be paid to her as compensation. It was on account of the efforts made by this Court that over and above the settled amount under compromise i.e. Rs. 7,00,000/-, another amount of Rs.7,00,000/- has also been paid by the appellants to complainant Joginder Kaur. Though no amount can compensate the complainant for the loss of her young son yet after having ensured that not only the amount in terms of the compromise but another sum of Rs. 7,00,000/- has been paid to complainant Joginder Kaur, this Court is of the view that the parties can now be permitted to compound the offence. The compromise arrived at is in the best interest of the parties, especially complainant Joginder Kaur. Under these circumstances, this Court, hereby, grants permission to complainant Joginder Kaur to compound the offence with the appellants.

Once the complainant has been granted permission to compound the offence, it would result in acquittal of the appellants as the offence under Section 420 IPC for which they stood convicted, is lawfully compoundable.

Resultantly, the appeal is accepted, impugned judgment of conviction and sentence is set-aside and the appellants are acquitted of the charge against them.

**(T.P.S. MANN)
JUDGE**

March 31, 2016
ajay-1

**(RAMENDRA JAIN)
JUDGE**

CRM 17819 of 2015 in
Crl. Appeal S-3751-SB of 2013

Niranjan Singh and another Vs. State of Punjab

Present : Mr. Jagjit Singh, Advocate
for the applicants/appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

Respondent No.2-Joginder Kaur in person.

Heard. For the reasons stated therein, the application is allowed. Joginder Kaur wife of Harbhajan Singh, resident of village Nangal Lubana, District Kapurthala is, hereby, impleaded as respondent No.2.

Amended memo. of parties is taken on record.

(T.P.S. MANN)
JUDGE

March 31, 2016
ajay-1

(RAMENDRA JAIN)
JUDGE

CRM 17820 of 2015 in
Crl. Appeal S-3751-SB of 2013

Niranjan Singh and another Vs. State of Punjab

Present : Mr. Jagjit Singh, Advocate
for the applicants/appellants.

Mr. Vikram Bishnoi, Asstt. A.G., Punjab.

Respondent No.2-Joginder Kaur in person.

To be heard with the appeal.

(T.P.S. MANN)
JUDGE

March 31, 2016
ajay-1

(RAMENDRA JAIN)
JUDGE

CRM 1140 of 2016 in
Crl. Appeal S-3751-SB of 2013

Niranjan Singh and another Vs. State of Punjab

Present : Applicant/respondent No.2-Joginder Kaur in person.

Mr. Jagjit Singh, Advocate
for the non-applicants/appellants.

Applicant/respondent No.2 prays for withdrawing the
application.

Dismissed as withdrawn.

(T.P.S. MANN)
JUDGE

March 31, 2016
ajay-1

(RAMENDRA JAIN)
JUDGE