

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-10789 of 2016

.....

Date of decision:16.5.2016

Shishpal and others

.....Petitioners

v.

State of Haryana and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Nonish Kumar, Advocate for the petitioners.

Mr. D.R. Singla, Deputy Advocate General, Haryana for
the respondent-State.

Mr. Vijay Partap Singh, 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 complaint No.9 dated 26.2.2009 titled as “Mukesh Vs. Shishpal and others” for the offences under Sections 323, 324, 326, 34 and 506 IPC (Annexure-P.1) on the basis of compromise (Annexure-P.4) and for quashing of all subsequent proceedings arising therefrom including the judgment and order dated 25/26.2.2014 whereby the petitioners had been convicted by learned trial Court.

The complaint has been filed by the complainant Mukesh against Shishpal and others on the allegations that the accused-petitioners

snatched away his visa and when he demanded the same back, the accused started quarreling with him. Thereafter, the accused attacked him and inflicted injuries. After trial, the petitioners were convicted for the offences under Sections 323, 326 and 506 read with Section 34 IPC and sentenced to undergo maximum sentence of three years vide judgment of conviction and order of sentence dated 25/26.2.2014 passed by learned Sub Divisional Judicial Magistrate, Safidon. Thereafter, the petitioners filed appeal against the impugned judgment and order before the learned Sessions Judge, Jind, which is pending for final adjudication. During the pendency of appeal, with the intervention of the respectable persons of both the parties have effected a compromise and the dispute has been resolved amicably and the complainant-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/appellate Court for getting their statements recorded in support of the compromise. After doing the needful, learned Additional Sessions Judge, Jind, before whom the appeal is pending, has sent his report dated 7.5.2016 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.

Learned Deputy Advocate General, Haryana, on instructions and learned counsel for complainant-respondent No.2 admit the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the complaint

as well as the impugned judgment passed by the learned Sub Divisional Judicial Magistrate, Safidon, in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the petitioners as well as learned Deputy Advocate General, Haryana, and learned counsel for complainant-respondent No.2 and have gone through the record.

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.

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 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 unparalleled 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.

Complaint No.9 dated 26.2.2009 (Annexure-P.1) titled as “Mukesh Vs. Shishpal and others” filed for the offences under Sections 323, 324, 326, 34 and 506 IPC and all subsequent proceedings arising therefrom on the basis of compromise (Annexure-P.4) are hereby quashed. The impugned judgment of conviction and order of sentence dated 25/26.2.2014 passed by learned Sub Divisional Judicial Magistrate, Safidon, whereby the petitioners had been convicted and sentenced for the offences under Sections 323, 326 and 506 read with Section 34 IPC are set aside on the basis of compromise.

May 16 2016.

(Inderjit Singh)
Judge

hsp