

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-1201 of 2016

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Date of decision:29.2.2016

Surjeet Singh and others

.....Petitioners

v.

State of Punjab and another

.....Respondents

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Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. A.S. Barnala, Advocate for the petitioners.

Ms. Shivali, Assistant Advocate General, Punjab for the
respondent-State.

Mr. M.S. Saini, 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.297 dated 22.10.2005 (Annexure-P.1) registered for the offences under Sections 419, 420, 465, 466, 467, 468, 471 and 120-B IPC at Police Station City Moga, District Moga, for setting aside judgment dated 31.1.2015 (Annexure-P.2) passed by learned Chief Judicial Magistrate, Moga and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.3).

The FIR has been registered on the statement of complainant- Amarjit Singh on the allegations that the accused-petitioners by hatching

conspiracy have cheated him. After trial, the petitioners have been convicted for the offences under Sections 419, 420, 465, 466, 467, 468 and 471 read with Section 120-B IPC. However, accused Surjan Dass was held guilty for the offences under Sections 420, 465, 467, 468 and 471 IPC read with Section 120-B IPC vide impugned judgment dated 31.1.2015 passed by learned Chief Judicial Magistrate, Moga and sentenced to undergo sentence of imprisonment under different sections of IPC. Aggrieved against the impugned judgment of the learned trial Court, they preferred an appeal before the Court of Session at Moga and as such their sentence was suspended during the pendency of the appeal before the Court of Session. In the meanwhile, due to the intervention of the respectable persons of the area and considering that the dispute was regarding business differences, both the parties preferred to compromise the matter amicably and thus a written compromise (Annexure-P.3) has been effected between the both the parties. As the disputes between the parties have been settled amicably, they were directed to appear before the learned trial Court/appellate Court for getting their statements recorded in support of the compromise. After doing the needful, learned Additional Sessions Judge, Moga, has sent his report dated 15.2.2016 submitting that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer and learned counsel for the 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 above FIR in view of the law laid down by the Hon'ble Supreme Court.

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

Hon'ble Supreme Court in Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another, 2008 (2) R.C.R. (Cr.) 910, held that the 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, Gwalior. 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.

In Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Cr.) 102, it has been 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 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 and FIR No.297 dated 22.10.2005 (Annexure-P.1) registered for the offences under Sections 419, 420, 465, 466, 467, 468, 471 and 120-B IPC at Police Station City Moga, District Moga, the impugned judgment dated 31.1.2015 (Annexure-P.2) passed by learned Chief Judicial Magistrate, Moga, vide which the petitioners have been convicted and sentenced and all subsequent proceedings arising therefrom are hereby quashed/set aside.

February 29, 2016.

(Inderjit Singh)
Judge

hsp