

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-15296-2015 (O&M)

Date of decision: December 08, 2016.

Kanwarjit Singh @ Manga and others

... **Petitioners**

v.

State of Punjab and others

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri H.S. Multani, Advocate for the petitioners.

Shri K.S. Sidhu, Assistant Advocate General, Punjab.

Shri Sonpreet Singh, Advocate for the complainant.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the assistance of Learned Counsel for the parties.

This is a petition for setting aside the judgment and order dated 29.9.2014 by way of compounding/compromise in the appeal which is pending before the Sessions Court, Mohali.

The petitioner-accused were convicted for offences under Sections 324, 148, 149 IPC and were sentenced to undergo RI for one year and to pay fine of Rs.1500/- each in default of payment of fine, to undergo simple imprisonment for 16 days. Judgment of conviction made by the trial court was put to challenge by the petitioners before the Sessions Court, Mohali and admittedly the said appeal is pending. Learned counsel for the complainant, who is present before the Court, categorically makes a

statement that indeed a compromise has been arrived at between the parties during the pendency of the appeal before the Sessions Court (Annexure P-3) signed by the parties and submits that the conviction be set aside by way of compounding/compromise.

Counsel for the State has however cited the decision of the Apex Court in the case of Narinder Singh and others v/s State of Punjab and another, 2014(2) RCR (Crl.) 482 and in particular para 31 (VII), which I quote hereunder:-

“(VII) While deciding whether to exercise its power under Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. On the other hand, where the prosecution evidence is almost complete or after the conclusion of the evidence the matter is at the stage of argument, normally the High Court should refrain from exercising its power under Section 482 of the Code, as in such cases the trial court would be in a position to decide the case finally on merits and to come a conclusion as to whether the offence under Section 307 IPC is committed or not. Similarly, in those cases where the conviction is already recorded by the trial court and the matter is at the appellate stage before the High Court, mere compromise between the parties would not be a ground to accept the same resulting in

acquittal of the offender who has already been convicted by the trial court. Here charge is proved under Section 307 IPC and conviction is already recorded of a heinous crime and, therefore, there is no question of sparing a convict found guilty of such a crime.”

He contended that since there is a conviction already recorded against the petitioners and the appeal is pending before the appellate court, in terms of the said decision of the Apex Court, power under Section 482 Cr.P.C. should not be exercised to set aside the conviction. He therefore opposed the present petition for compounding/compromise.

I have heard learned counsel for the rival parties.

It is not in dispute that the parties, i.e., complainant and the accused persons have arrived at a compromise (Annexure P-3) and the appeal is pending before the first appellate court. Conviction has been recorded under Section 324 IPC and now the parties appear to have arrived at a compromise. The aforesaid judgment of the Apex Court shows that in respect of heinous crimes particularly in that case under Section 307 IPC, ordinarily the High Court should not exercise power under Section 482 Cr.P.C. to allow compounding/compromise.

In my opinion, the said part of the judgment cannot be read to mean that the power under Section 482 Cr.P.C. cannot be exercised in the case, like the one at hand, namely, the quarrel between the two parties and then conviction under Section 324 IPC with sentence of one year. Undoubtedly, the offence under Section 307 IPC in case of conviction would be a heinous offence and in the case of Gian Singh, the three Judges Bench of the Apex Court has categorized the offences in which the

compounding should not be allowed by the court. The aforesaid paragraph is an extension of the same principle.

Be that as it may, on the facts of the present case, I find that the conviction under Section 324 IPC in a quarrel between two parties cannot be called a heinous crime and therefore the judgment is distinguishable.

The next question is that the prosecution had, after registering FIR, made investigation, filed challan and thereafter also got conviction. Since compromise is now arrived at after conviction, I think the petitioners, who own a liquor vend shop in Mohali, should pay an amount of Rs.50,000/- i.e. Rs.10,000/- each to the State of Punjab by depositing in the office of SSP, Mohali.

The prayer for recording acquittal of the petitioners also cannot be accepted and the only part regarding sentence can be modified. In that view of the matter, the following order is passed:-

ORDER

- i) CRM-M-15296-2015 is allowed;
- ii) the sentence awarded to the petitioners under judgment and order dated 29.9.2014 is set aside by way of compounding/ compromise (Annexure P-3) subject to payment of compensation in the sum of Rs.50,000/- i.e., Rs.10,000/- by each of the petitioners within a period of eight weeks from today with the office of SSP, Mohali;
- iii) in case the amount of compensation is not paid to the State of Punjab through SSP, Mohali, present order shall

automatically stand recalled without further reference to this
Court.

December 08, 2016.
kadyan

[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No