

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

**C.R.M-M No.28339 of 2015 (O&M)
Date of Decision : 31.08.2016**

Ram Kumar and others Petitioners

Versus

State of Haryana and others Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Anshul Mangla, Advocate for the petitioners.

Mr. Kuldeep Tiwari, Additional A.G., Haryana.

Mr. V.K.Gupta, Advocate for respondents No.2, 3 and 4.

AJAY TEWARI, J. (Oral)

The present petition has been filed under Section 482 Cr.P.C. for quashing the judgment dated 23.01.2014 as well as the order dated 27.01.2014 passed by the Court of Judicial Magistrate 1st Class, Yamuna Nagar at Jagadhri whereby the petitioners have been convicted under Sections 323/325/326 and 506 IPC and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

On 12.07.2016 the following order was passed :-

“The issue in this case is as to whether the FIR can be quashed on the basis of compromise after the conviction has been recorded during appeal/revision. In Narinder Singh and others vs. State of Punjab and another, 2014(2) R.C.R. (Criminal) 482, the Supreme Court in para No.31 has held as follows:-

“VII...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.”

Learned counsel for the petitioners has argued that in that case the Supreme Court was dealing with a case of compromise at pre-conviction stage and rather at a stage where evidence had also not been led and thus the observations made in paragraph No.31 cannot be taken to be as ratio decidendi, more so, since in paragraph No.25 of that judgment the Supreme Court has clarified as follows:-

“ We make it clear that though there would be a general discussion in this behalf as well, the matter is examined in the context of offences under Section 307 IPC.”

Learned Additional Advocate General seeks a short adjournment to respond.

It is stated that the matter is now fixed before the Appellate Court for 15.07.2016. In the circumstances, in the meantime the parties are directed to be present before the Appellate Court on the date fixed on 15.07.2016 or on any other date convenient to the Court for recording their statements with regard to compromise. The Court is directed to record the statements of the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Court is further directed to send report along with the statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal case and proclamation proceedings is pending against either of the parties before

the next date of hearing.

To come up on 31.08.2016.

A copy of this order be given to the learned counsel for the petitioners under the signatures of the Bench Secretary.”

Thereafter, the report of the Addl. District and Sessions Judge, Yamuna Nagar, Jagadhri dated 05.08.2016 has been received whereby he has mentioned that the parties had appeared before him and had attested to the fact that a compromise has indeed taken place between them and that the compromise has been executed voluntarily and without any pressure.

In pursuant to last order learned Additional Advocate General has fairly accepted that the judgment in the case of ***Narinder Singh (supra)*** would not be applicable to the present case.

Learned counsel for the petitioners has relied upon ***Pawan Kumar Vs. State of Haryana and another, 2016 (2) RCR (Criminal) 176*** wherein a single Judge of this Court by relying upon ***Sube Singh Vs. State of Haryana, 2013 (4) RCR (Criminal) 102*** has in similar circumstances quashed the judgment of conviction.

Keeping in view the above facts the petition is allowed and the impugned judgment and sentence is set aside. However, it has been agreed the fine which has been deposited shall be defrayed to the respondents No.2 to 4 as per the direction of the Magistrate.

Since the main case has been decided, the pending Criminal Misc. Application, if any, also stands disposed of.

31.08.2016

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No