

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-31396 of 2015

.....

Date of decision:6.1.2016

Joginder Singh and another

.....Petitioners

v.

State of Punjab and others

.....Respondents

....

Present: Mr. Ashok Kumar Sama, Advocate for the petitioners.

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

Mr. Satbir Gill, Advocate for respondents No.2 to 4.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of FIR No.194 dated 22.8.2008 (Annexure-P.1) registered for the offences under Sections 326, 323, 324, 201 and 34 IPC at Police Station Sadar Jalalabad, District Fazilka and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.3). It has been further prayed for directing the Additional Sessions Judge, Fazilka (Appellate Court) to compound the offences in the criminal appeal arising out of the judgment dated 19.11.2014 passed in Criminal Case No.9-1 of 10.4.2010 passed by Judicial Magistrate Ist Class, Jalalabad, vide which the petitioners have been convicted and sentenced for the offences under Sections 326, 323, 324 and 34 IPC.

The FIR has been registered on the statement of complainant-

Teja Singh (since deceased) on the allegations that the accused-petitioners

attacked him and inflicted injuries. After trial, the petitioners were convicted for the offences under Sections 326, 323, 324 and 34 IPC and sentenced to undergo maximum sentence of two years vide judgment of conviction and order of sentence dated 19.11.2014 passed by learned Judicial Magistrate Ist Class, Jalalabad. Thereafter, the petitioners filed appeal against the impugned judgment and order before the learned Sessions Judge, Ferozepur, which is pending before learned Additional Sessions Judge, Fazilka. During the pendency of appeal, with the intervention of the respectable persons of both the parties on 2.9.2015, a written compromise has been effected between the parties and in view of the above said compromise, respondents No.2 No.3-Chan Singh and Sawan Singh, who are sons of complainant Teja Singh, do not want to proceed with the case. Complainant-Teja Singh had died during the pendency of the case, therefore, Chan Singh-respondent No.2 son of the complainant has sworn an affidavit (Annexure-P.4) in support of the compromise.

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned appellate Court for getting their statements recorded in support of the compromise. After doing the needful, learned Additional District & Sessions Judge, Fazilka, before whom the appeal is pending, has sent his report dated 21.12.2015 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 Assistant Advocate General, Punjab, on instructions

from the Investigating Officer and learned counsel for respondents No.2 to 4 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 FIR 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 Assistant Advocate General, Punjab and learned counsel for respondents No.2 to 4 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

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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 unparallel 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. FIR No.194 dated 22.8.2008 (Annexure-P.1) registered for the offences under Sections 326, 323, 324, 201 and 34 IPC at Police Station Sadar Jalalabad, District Fazilka and all subsequent proceedings arising out of the same are thereby quashed. The impugned judgment of conviction and order sentence dated 10.4.2010 passed by Judicial Magistrate Ist Class, Jalalabad vide which the petitioners have been convicted and sentenced for the offences under Sections 326, 323, 324 and 34 IPC are set aside on the basis of compromise.

January 6, 2016.

(Inderjit Singh)
Judge

hsp