

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-35693-2015

Date of Decision: January 27, 2016

Jasvir Singh @ Nikka

...Petitioner

Versus

State of Punjab and others

...Respondents

- | | | |
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| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the Reporters or not?</i> | YES |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | YES |

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: None for the petitioner.

Mr. P.S. Paul, DAG, Punjab,
for respondent No. 1.

None for respondent Nos. 2 and 3.

NARESH KUMAR SANGHI, J (Oral)

It is 02:38 p.m.

Despite calling the case thrice since morning, no one

has appeared for the petitioner.

With the assistance of learned counsel for the State, the material available on record has been perused.

Prayer in this petition, filed under Section 482, Cr.P.C., is for quashing of the judgment of conviction and the order of sentence, dated 25.4.2014 (Annexure P-2), passed by learned Judicial Magistrate First Class, Sunam, and other proceedings relating to the case, in view of the compromise dated 29.5.2015 (Annexure P-3).

In the matter of **Kulvir Singh v. State of Punjab and others** (CRM-M-22257-2014, decided on 2.12.2015), a co-ordinate Bench of this Court while relying upon **Varinder Kumar v. State of Punjab and another**, 2012 (4) AICLR 104, and also discussing **Kulwinder Singh and others v. State of Punjab and another**, 2007 (3) RCR (Criminal) 1052, dismissed the petition for quashing of the FIR for the offence punishable under Section 304-A, IPC, on the basis of compromise. In **Varinder Kumar's case (supra)**, it has been held as under:-

“5. Admittedly, the offences under Sections 279 and 304-A IPC are non-compoundable. There is no scope

for a Court of law permitting the compounding of such offences merely because the parties have decided to compromise the matter on behalf of a dead person. If the plea taken is accepted then the day is not far away when in a murder case complainant or eye witnesses compromising the matter with the accused will start filing petitions under Section 482 of the Code seeking quashing of the FIR on the basis of compromise. The kin of the victim, that is, respondent No.2 has no right to compound the offences on behalf of the deceased. It is not a case where the inherent power under Section 482 of the Code should be exercised as the quashing of FIR will not prevent the abuse of process of any Court rather it will be abuse of the provision of Section 482 of the Code itself.”

Similar view was taken by this Court in the matter of Dharampal @ Dharma and others v. State of Punjab and another (CRM-M-37641-2015, decided on 3.11.2015)

Similar is the proposition in the case in hand. The petitioner has been held guilty for the offences punishable under Sections 279, 304-A and 337, IPC, by the learned Trial Court. Concededly, the appeal filed by the petitioner challenging his conviction and sentence is pending before the Appellate Court.

In view of above, there is no substance in the present petition and the same is hereby dismissed.

However, it is made clear that if so advised, the petitioner may mention the factum of the compromise before learned Appellate Court at the time of final arguments and may get the benefit in quantum of sentence as per law.

(NARESH KUMAR SANGHI)
JUDGE

January 27, 2016
P Kapoor