

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

**C.R.M-M No.38160 of 2016 (O&M)
Date of Decision : 13.12.2016**

Gurdev Singh and others

..... Petitioners

Versus

The State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : None for the petitioners.

Mr. S.S.Sidhu, AAG, Punjab.

None for other respondents.

AJAY TEWARI, J. (Oral)

On 24.10.2016 the following order was passed :-

“The present petition has been filed under Section 482 Cr.P.C. for quashing of F.I.R. No.16 dated 04.02.2010 registered under Sections 324, 323, 148, 149 IPC and D.D.R. No. 25 dated 04.02.2010 under Section 326 IPC, at P.S. Nahianwala, District Bathinda and for setting aside the judgment of conviction and order of sentence dated 19.02.2016 and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

Notice of motion.

On the asking of the Court, Mr. B.S. Thind, Assistant Advocate General, Punjab, accepts notice on behalf of the respondent No.1.

Learned counsel for the petitioners undertakes to supply a copy of the petition to the learned A.A.G. during the course of the day.

To come up on 13.12.2016. Meanwhile, the parties are directed to be present before the Appellate Court on the date fixed which is stated to be 27.10.2016 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 both 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.

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 Additional Sessions Judge, Bathinda dated 23.11.2016 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 “**Gian Singh Vs. State of Punjab**” (2012) 10 SCC 303 **Apex Court** has recognized the need of amicable resolution of disputes in cases like the instant one, by observing as under:-

"However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to the victim and the offender and the victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made

compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or FIR if it is satisfied that on the face of such settlement, there is hardly any likelihood of the offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated."

Consequently, the DDR No.25 dated 04.02.2010 under Section 326 IPC at P.S. Nahianwala, District Bathinda is quashed.

There is no dispute about the fact that the dispute has been settled between the parties. None has appeared on behalf of the parties.

The offence under Section 324 IPC in FIR No.16 dated 04.02.2010 is non-compoundable. In the matter of ***Dasan Vs. State of Kerala and another, 2014 (1) RCR (Criminal) 1013*** it was held that once the offence is non-compoundable, permission to compound it can not be granted. In the circumstances, the Court has to strictly follow the mandate of Section 320 of the Code. It is, therefore, not possible to permit compounding of offence under Section 324 IPC.

Facing with this situation this Court has to rely upon the judgment of the Supreme Court in the matter of ***Manohar Singh Vs. State of Madhya Pradesh and another, 2014(13) SCC 75*** wherein a similar situation the sentence of the accused was reduced to that already undergone by him.

In the circumstances, the offence under Sections 323, 148, 149 IPC in FIR No.16 dated 04.02.2010 is compounded and the petitioners are acquitted. With regard to the offence under Section 324 IPC the conviction

of the petitioners is upheld and their sentence is reduced to that they have already undergone.

In the circumstances, the petition stands disposed of in the above terms.

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

13.12.2016

Pooja sharma-I

**(AJAY TEWARI)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No