

In the High Court of Punjab and Haryana at Chandigarh

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(1) Criminal Misc. No.M-37618 of 2014 (O&M)

.....

Date of decision:11.7.2016

Azad and others

.....Petitioners

v.

State of Haryana and another

.....Respondents

....

(2) Criminal Misc. No.21739 of 2015
and
Criminal Appeal No.S-1855-SB of 2008

.....

Subhash and others

.....Applicants/appellants

v.

State of Haryana

.....Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Jainainder Saini, Advocate for the petitioners in Cr. Misc. No.M-37618 of 2014 and for respondents No.2 to 4 in Cr. Misc. No.21739 of 2015 and Cr. Appeal No.S-1855-SB of 2008.

Mr. Rajesh Bansal, Advocate for the applicants/appellants in Cr. Misc. No.21739 of 2015 and Criminal Appeal No.S-1855-SB of 2008 and for respondent No.2 in Cr. Misc. No.M-37618 of 2014.

Mr. Vikramjit Singh, Additional Advocate General, Haryana for the respondent-State.

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Inderjit Singh, J.

This order will dispose of the above mentioned two criminal miscellaneous petition/appeal i.e. Criminal Misc. No.M-37618 of 2014 filed under Section 482 Cr.P.C. for quashing of FIR No.218 dated 14.3.2006 registered for the offences under Sections 326, 324, 452, 506 and 34 IPC at Police Station Sadar, District Hisar and Criminal Misc. No.21739 of 2015 and Criminal Appeal No.S-1855-SB of 2008 in FIR No.219 dated 15.3.2006 registered for the offences under Sections 325, 307 and 34 IPC at Police Station Sadar Hisar, District Hisar. In FIR No.218 dated 14.3.2006, the petitioners have been convicted and sentenced for the offences for the offences under Sections 323, 326 and 452 read with Section 34 IPC vide judgment dated 7.3.2013 passed by learned Judicial Magistrate Ist Class, Hisar. In FIR No.219 dated 15.3.2006, the petitioners have been convicted and sentenced for the offence under Section 325 read with Section 34 IPC vide judgment and order dated 9.9.2008/11.9.2008 passed by learned Additional Sessions Judge, Hisar. Initially, these petitions have been filed for quashing on merit, but during the pendency of these petition/appeal, compromise has been arrived at between the parties and have amicably settled the dispute.

The FIRs have been registered against each other by the petitioners/appellants of both the petition/appeal as dispute arose as a result of fight between the parties in which injuries were received by both the parties. This is a version and cross-version. The trial in both the cases i.e. the FIRs ensued and both the parties i.e. the petitioners/appellants were convicted and sentenced vide separate judgments and orders dated 7.3.2013

and 9.9.2008/11.9.2008 passed by learned Judicial Magistrate Ist Class, Hisar and learned Additional Sessions Judge, Hisar respectively. Both the parties preferred criminal appeals before the learned Sessions Judge/in this High Court respectively, which are pending. During the pendency of appeals, now with the intervention of the respectable persons, the matter has been amicably sorted out between both the parties and compromise has been entered into. Criminal Misc. No.21739 of 2015 has been filed for allowing the appeal and further to set aside the judgment and order dated 9.9.2008/11.9.2008 in view of compromise dated 12.10.2014 (Annexure-A.1).

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned trial Court for getting their statements recorded in support of the compromise. After doing the needful, learned Judicial Magistrate Ist Class, Hisar has sent his report dated 8.2.2016 in Cr. Misc. No.M-37618 of 2014 submitting that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine.

Learned Additional Advocate General, Haryana, on instructions from the Investigating Officer and learned counsel for complainants 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 FIRs in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the petitioners/appellants as well as learned Additional Advocate General, Haryana and have gone through the record.

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 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), these petition/appeal are allowed. FIR No.218 dated 14.3.2006 registered for the offences under Sections 326, 324, 452, 506 and 34 IPC at Police Station Sadar, District Hisar and judgment and order dated 7.3.2013 passed by the learned Judicial Magistrate Ist Class, Hisar are hereby quashed/set aside. FIR No.219 dated 15.3.2006 registered for the offences under Sections 325, 307 and 34 IPC at Police Station Sadar Hisar, District Hisar and judgment and order dated

9.9.2008/11.9.2008 passed by learned Additional Sessions Judge, Hisar are hereby quashed/set aside on the basis of compromise.

July 11, 2016.

(Inderjit Singh)
Judge

hsp