

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

Date of Decision : 24.09.2016

1) CRM-M No.38546 of 2015

Avtar Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

2) CRM-M No.38574 of 2015

Palwinder Singh and others

..... Petitioners

Versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Ankit Duggal, Advocate
for the petitioners (in CRM-M-38546-2015).
for the respondents No.2 & 3 (in CRM-M-38574-2015)

Mr. Manbir Singh Basra, Advocate
for the petitioners (in CRM-M-38574-2015)
for the respondents No.2 & 3 (in CRM-M-38546-2015).

Mr. Ashish Sanghi, D.A.G., Punjab.

AJAY TEWARI, J. (Oral)

The petition bearing CRM-M No.38546 of 2015 has been filed for quashing of Complaint No.37 dated 14.03.2009 under Sections 452, 326, 323, 382, 148, 149 IPC filed before JMIC Batala and all consequential proceedings arising therefrom and for setting aside the judgment of conviction & sentence dated 11.03.2015 on the basis of compromise between the parties.

The petition bearing CRM-M No.38574 of 2015 has been filed for quashing of FIR No.126 dated 22.08.2007 registered under Sections 326, 323, 148, 149 IPC at Police Station Qadian, District Gurdaspur and all consequential proceedings arising therefrom and for setting aside the judgment of conviction and sentence dated 11.03.2015.

As per the report of the Additional District & Sessions Judge, Gurdaspur the compromise has indeed taken place between the parties and that the compromise has been executed voluntarily and without any pressure.

The Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another** reported as (2014) 6 SCC 466 has discussed in detail about quashing of FIR in the case of post-conviction period and has held as under:-

Section 482 of the Code or not, timings of settlement play a crucial role. Those cases where the settlement is arrived at immediately after the alleged commission of offence and the matter is still under investigation, the High Court may be liberal in accepting the settlement to quash the criminal proceedings/investigation. It is because of the reason that at this stage the investigation is still on and even the charge sheet has not been filed. Likewise, those cases where the charge is framed but the evidence is yet to start or the evidence is still at infancy stage, the High Court can show benevolence in exercising its powers favourably, but after prima facie assessment of the circumstances/material mentioned above. 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.”

However, in para No.25 of the said judgment the Hon'ble Supreme Court has specifically observed as under:-

“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.”

Therefore, it is clear that there is no absolute bar on quashing of FIR on the basis of compromise in the case of post conviction period.

Learned counsel for the petitioner/s have further relied upon the judgment of this Court in the matter of ***Sarabjit Kaur @ Shabo and others vs. State of Punjab and others, passed in CRM-M-15258-2015, decided on 31.03.2016***, to urge that in the light of the compromise, the petitioner/s may be acquitted.

In my opinion, there is no legal impediment in granting this relief. The compromise effected between the parties is accepted. The petitions are disposed of qua the petitioner/s only. The judgments of conviction and orders of sentence passed by the Court below are set aside qua the petitioner/s and the petitioner/s are acquitted of the charges.

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

September 24, 2016
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned - Yes/No

Whether reportable - Yes/No