

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-4122 of 2016

.....

Date of decision:8.11.2016

Shamsher Singh

.....Petitioner

v.

Daya Ram and another

.....Respondents

....

Present: Mr. Saurabh Bhardwaj, Advocate for the petitioner.

Mr. Brijesh Sharma, Assistant Advocate General, Haryana for  
the respondent-State.

Mr. Deepam Raghava, Advocate for complainant-respondent  
No.2.

.....

**Inderjit Singh, J.**

This petition has been filed under Section 482 Cr.P.C. praying for quashing of complaint No.230 of 2009 titled as “Daya Ram Vs. Mehma Singh & others” dated 8.8.2006 (Annexure-P.1) and the judgment/order dated 23/24.4.2013 (Annexure-P.2) passed by the Court of learned trial Court, Kurukshetra, vide which the petitioner has been convicted for the offence under Section 452 IPC and sentenced to undergo simple imprisonment for a period of six months on complaint filed by Daya Ram i.e. respondent No.1 and all the subsequent proceedings/orders arising thereto on the basis of compromise (Annexure-P.4).

The complaint has been filed by complainant-Daya Ram for the offences under Sections 323, 452, 392, 504, 506, 120-B and 109 IPC read

with Section 34 IPC at Police Station Sadar, Thanesar, District Kurukshetra on the allegations that the accused-petitioner and two other persons have attacked him and inflicted injuries. The complainant, namely, Daya Ram (respondent No.1) is married with petitioner's sister, namely, Kamlesh since 1979 and out of this wedlock four children are born out. Dispute between the family (husband and wife) of respondent No.1 was going on and due to which there were number of civil and criminal litigation pending between them. The petitioner along with his father were summoned for the offences under Sections 323, 452 and 506 read with Section 34 IPC. After trial, the learned trial Court acquitted the petitioner for the offences under Sections 323 and 506 IPC and convicted him for the offence under section 452 IPC vide judgment dated 23.4.2013 and ordered to undergo simple imprisonment of six months vide order dated 24.4.2013. During trial the father of the petitioner expired. Against the judgment of conviction and order of sentence the petitioner preferred an appeal before the Court of learned Sessions Judge, Kurukshetra and the same is pending before the Court of learned Additional Sessions Judge, Kurukshetra. In the meantime, due to the intervention of the respectable persons of the society and the family members, the matter between the parties has been compromised and the matter has been amicably settled between the parties. After compromise the petitioner's sister and Daya Ram (respondent No.2) are living together.

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 Additional Sessions Judge, Kurukshetra, before whom the appeal is pending, has sent his report dated 5.9.2016 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, Haryana, on instructions from the Investigating Officer and learned counsel for complainant-respondent No.2 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 complaint in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the petitioner as well as learned Assistant Advocate General, Haryana and learned counsel for complainant-respondent No.2 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 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 unparalleled 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. Complaint No.230 of 2009 titled as “Daya Ram Vs. Mehma Singh & others” dated 8.8.2006 (Annexure-P.1) and the judgment/order dated 23/24.4.2013 (Annexure-P.2) passed by the Court of learned trial Court, Kurukshetra and all the subsequent proceedings/orders arising thereto on the basis of compromise (Annexure-P.4) are quashed/set aside on the basis of compromise.

November 8, 2016.

**(Inderjit Singh)**  
**Judge**

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| <b>NOTE:</b> | Whether speaking/reasoned: | Yes |
|              | Whether reportable:        | No  |