

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

CRL. MISC. No.M-43009 OF 2016
DATE OF DECISION : 8th DECEMBER, 2016

Paramjit Singh

.... Petitioner

Versus

State of U.T. Chandigarh

.... Respondent

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

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Present : Mr. Pankaj Bali, Advocate for the petitioner.

Ms. Ashima Mor, APP for UT Chandigarh.

Mr. Deepak Sharma, Advocate
for respondent No.2/complainant.

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A. B. CHAUDHARI, J. (ORAL)

Rule heard forthwith.

The petitioner was convicted for offences under Section 420, 467, 468, 471, 474 & 120-B IPC in FIR No. 373 dated 19.11.2009 registered at Police Station Sector-17, Chandigarh and sentenced to undergo rigorous imprisonment for three years and fined along with other co-accused persons. The conviction and sentence has been challenged by him in criminal appeal No.101 of 2016. The learned counsel for the petitioner fairly states that the appeal has been argued and is closed for judgment for 12.12.2016. The counsel for the petitioner further submits that in the meanwhile there has been compromise between the complainant and the petitioner.

Mr. Deepak Sharma, Advocate for the complainant submits that indeed there is a compromise Annexure P-5 between the petitioners and the complainant and therefore, the sentence can be set aside.

On the contrary, learned counsel for the petitioner invited my attention to the finding of conviction recorded by the trial Judge and towards the reasons given by the trial Judge in the judgment for recording the conviction and contended that the entire judgment nowhere shows as to the complicity of the petitioner in the alleged proved evidence, but for the fact that the petitioner has signed as a witness on the documents of Will simply. He therefore submits that not only the order of sentence but even the order of conviction will have to be set aside as there is no finding against the petitioner that he was guilty of any offence.

Learned counsel for the State opposed the petition on the ground that in the case of *Narinder Singh and others Versus State of Punjab and another, 2014(2) R.C.R.(Criminal) 482*, the Apex Court in para 31(vii) of its judgment has held that the offences which are heinous and serious offences involving moral turpitude cannot be compounded by exercising power under Section 482 Cr.P.C.

Heard learned counsel for the rival parties for quite some time and perused the entire judgment and reasons given by the trial Judge for finding out complicity or evidence against the petitioner for the offence as aforesaid.

Perusal of the FIR and judgment shows that but for the petitioner has signed as witness on the documents of Will, there is absolutely no finding, reason or evidence appearing in the judgment that there is evidence against the petitioner and on had thus committed any

offence, much less for which he has been convicted. Insofar as the petitioner is concerned, the judgment of conviction is blissfully silent and therefore, one wonders why the petitioner was convicted. In my opinion, by merely saying that the petitioner has signed as a witness on the documents of Will, is not amount to commission of any offence for which he has been convicted. That is the only admitted position namely that the petitioner had signed as witness on the Will and nothing beyond that.

Be that as it may, now there is compromise Annexure P-5 before this Court. This Court was in no mood to allow compounding/compromise because the appeal is fixed for judgment before the trial court and the parties have submitted before the appellate Court and also argued the entire appeal. In ordinary course this court would not have entertained the present petition for compounding/compromise but then finding that there is absolutely no evidence against the petitioner even discussed by the trial Court in the impugned judgment except for the fact that he had signed on the Will as a witness, I think the power under Section 482 Cr.P.C. for compounding/compromise deserves to be exercised in the light of the decision by Hon'ble Supreme Court in the case of ***Gian Singh Versus State of Punjab and another, 2012 (4) RCR (Criminal) 543***, and the conviction also will have to be set aside for the above reasons. In the result I make the following order:

ORDER

- (i) The CRL. MISC. No.M-43009 OF 2016 is allowed.

- (ii) The conviction and sentence recorded by the trial Judge for offence punishable under Section 420, 467, 468, 471, 474 & 120-B IPC in FIR No. 373 dated 19.11.2009 registered at Police Station Sector-17, Chandigarh, by way of compounding/compromise is quashed and set aside.
- (iii) The petitioner is set at liberty forthwith.
- (iv) The petitioner shall place the copy of this order before the Appellate Court and get the appeal disposed of accordingly.

8th DECEMBER, 2016
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned:	Yes	No
Whether Reportable:	Yes	No