

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-4813 of 2016

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Date of decision:28.3.2016

Varinder Kumar

.....Petitioner

v.

State of Haryana and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Robin Dutt, Advocate for the petitioner.

Mr. D.R. Singla, Deputy Advocate General, Haryana for
the respondent-State.

Mr. Vivek Suri, Advocate for complainant-respondent No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of complaint No.691 of 2008 dated 26.2.2008 (Annexure-P.1), decided on 15.7.2014, filed for the offences under Sections 420, 467, 468, 471, 506 and 120-B IPC at Police Station Sadar, Yamuna Nagar, and the judgment of conviction and order of quantum of sentence dated 16.7.2014 passed by learned Additional Chief Judicial Magistrate, Yamuna Nagar at Jagadhri (Annexure-P.2) on the basis of compromise (Annexure-P.4).

The complaint has been filed by complainant-Raj Kumar on the allegations that the accused-petitioner along with his accomplices forged documents in connivance with each other and hatched a conspiracy to harm the complainant. The complainant had received information under RTI Act

that a debit note and withdrawal form dated 7.2.2003 were forged by the accused. The complainant was having the account in the name and style of M/s Manakatala Traders, Haria Bans against which a cash credit limit was availed by him. However, the complainant had closed the said account on 19.4.2006 and had surrendered the unused cheques No.0161665 to 0161670 to the Bank. After trial, the petitioner was convicted for the offences under Sections 467, 468 and 471 IPC and sentenced him for five years and to pay a fine of ₹10,000/- under Section 467 IPC and two years and fine of ₹3,000/- under Section 468 IPC and two years and fine of ₹2,000/- under Section 471 IPC, vide the impugned judgment and order passed by learned Chief Judicial Magistrate, Yamuna Nagar at Jagadhri. Thereafter, the petitioner filed appeal against the impugned judgment and order before the learned Sessions Judge, Yamuna Nagar at Jagadhri, which is pending. During the pendency of the appeal, with the intervention of the respectable persons of both the parties, a written compromise has been effected between the parties and in view of the above said compromise, respondent No.2 does not want to proceed with the case.

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 Sessions Judge, Yamuna Nagar at Jagadhri, before whom the appeal is pending, has sent her report dated 17.3.2016 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 Deputy 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 FIR 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 Deputy 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.691 of 2008 dated 26.2.2008 (Annexure-P.1), decided on 15.7.2014, filed for the offences under Sections 420, 467, 468, 471, 506 and 120-B IPC at Police Station Sadar, Yamuna Nagar, and the judgment of conviction and order of quantum of sentence dated 16.7.2014 passed by learned Additional Chief Judicial Magistrate, Yamuna Nagar at Jagadhri (Annexure-P.2) emanating from it and all subsequent proceedings arising out of the same are hereby quashed/set aside on the basis of compromise.

March 28, 2016.

(Inderjit Singh)
Judge

hsp