

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

**CRM-M No.1184 of 2015
Date of Decision: 30.01.2017**

Satish Kumar @ BabluPetitioner

Versus

State of Haryana and another ... Respondents

CORAM:-HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present:Mr. Sandeep Goyat, Advocate
for the petitioner.

Ms. Gaganpreet Kaur, AAG, Haryana.

Mr. Shashikant Gupta, Advocate
for the complainant.

RAJ MOHAN SINGH, J.

[1]. Petitioner prayed for quashing of FIR No.323 dated 07.06.2010 under Sections 287/338 IPC, Police Station City Hansi, District Hisar and also for setting aside the judgment dated 13.05.2014 and order dated 14.05.2014 passed by Sub Divisional Judicial Magistrate, Hansi, District Hisar and all other subsequent proceedings arising therefrom on the basis of compromise.

[2]. The aforesaid FIR was registered on the statement of Surinder Yadav with the allegations that on 03.06.2010 at about 12:30 AM, complainant was present in the factory and the petitioner being owner of the factory came and asked him that Surf Manufacturing Machine has become out of order and the

complainant has to operate the same. Petitioner told him to operate the machine after pressing the electricity button and also to push the fan-belt of the machine manually. When the complainant was pushing the fan-belt of the machine, it started running and due to that, his fingers of right hand came in between the fan-belt and the roller. Index finger and first two fingers near thumb were crushed and amputated. Petitioner got the complainant admitted in the hospital, where he was treated and operated by the doctor.

[3]. Allegations were made that all of sudden, the petitioner/owner of the factory pressed the electricity button and due to his negligence, the complainant suffered injuries. Statement of the injured was recorded on receiving medical *ruqa* from the hospital and ultimately, FIR in question came to be recorded on 07.06.2010.

[4]. After due investigation, challan was presented and charges were framed under Sections 287, 338 IPC. Petitioner pleaded not guilty and claimed trial.

[5]. After recording the prosecution evidence, statement of the accused-petitioner was recorded under Section 313 Cr.P.C where he denied the prosecution evidence and pleaded innocence. Petitioner also led evidence in defence.

[6]. Trial Court ultimately convicted the petitioner for the

offences under Sections 287, 338 IPC and sentenced him to undergo simple imprisonment for a period of 3 months and to pay fine of Rs.500/- for the offence under Section 287 IPC along with default machanizm and also to undergo simple imprisonment for one year along with fine of Rs.500/- for the offence under Section 338 IPC. In the event of default of payment of fine, to further undergo simple imprisonment for 10 days. Trial Court passed the order of conviction and sentence on 13.05.2014 and 14.05.2014 respectively. Petitioner filed an appeal before the Court of Sessions at Hisar which is statedly pending.

[7]. Due to intervention of respectables and hon'ble persons of the society, the matter was ultimately compromised between the parties on 08.12.2014. The compromise was reduced into writing with the following points of settlement:-

“1. That the 1st party got recorded one FIR No.323 dated 07.06.2010 under Sections 287/338 IPC registered at Police Station City Hansi, District Hisar against the 2nd party.

2. That the matter has been amicably settled between both the parties without any pressure, coercion, fear and undue influence in the presence of respectable persons, ralatives. The present compromise has been effected in order to establish peace and love among both

the parties. So that in future both the parties could live with the feeling of brotherhoods.

3. That the 1st party have no objection that if the FIR mentioned above is quashed by the Hon'ble Punjab and Haryana High Court, Chandigarh against the 2nd party on the basis of present compromise and the 1st party is also ready and willing to record his statement regarding the same as and when required or directed by the Hon'ble Court either before the Hon'ble Court or before the Id. Appellate Court/Magistrate/Illaqa Magistrate.

4. That the present compromise has been reduced into writing on this day of 08th December, 2014 at Hansi in presence of witnesses and both the parties shall be bound by this compromise and they will not file any case against each other in future regarding the present FIR.

[8]. In **Dr. Arvind Barsaul etc. Vs. State of Madhya Pradesh and another, (2009) CriLJ 331**, the Hon'ble Supreme Court held that the proceedings even after conviction of the accused can be quashed on the basis of compromise. If the Court finds that continuation of criminal proceedings would result in abuse of process of law, then inherent jurisdiction of the Court can be resorted to in setting the controversy right.

[9]. In **Sube Singh and another Vs. State of Haryana and**

another, (2013) 4 RCR (Criminal) 102, this Court also held that inherent jurisdiction of the High Court can be pressed into service even after conviction of the accused and during pendency of the appeal before the first Appellate Court, where it is found that the continuation of proceedings would result in abuse of process of law and such an exercise would advance cause of justice. There is no embargo against invoking of power under Section 482 Cr.P.C after conviction of the accused by the trial Court and during pendency of the appeal.

[10]. High Court is duly vested with unparallel power to quash criminal proceedings at any stage in order to secure ends of justice. Since the parties have already buried their hatchet by way of entering into amicable settlement, though at belated stage, but the compromise in question would definitely advance cause of justice and would go in a long way to create harmony and better relationship between the parties. The compromise in question would definitely bring ever lasting tool for the parties to live in congenial and harmonious atmosphere. The law laid down in Gian Singh Vs. State of Punjab and another, (2012) 10 SCC 303 is also of great help in the present context.

[11]. The compromise in question would definitely facilitate both the parties to live in peace and to maintain public tranquility. The offences are personal in nature and does not

involve any heinous and serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. The magnitude of inherent power of High Court is wide enough to cover proceedings in appeal also.

[12]. In **2014(3) RCR (Crl.) 854, Deva Ram v. State of Rajasthan** and another the Hon'ble Apex Court held that since offence under Section 420 IPC is compoundable with permission of Court and the accused were sentenced for compoundable offences. Appeal and revision were dismissed and thereafter parties entered into compromise during pendency of appeal before the Hon'ble Supreme Court. Keeping in view the nature of offence, parties were allowed compounding of offences with the permission of Court and the accused was acquitted of the said charge.

[13]. Compoundable nature of offence under Section 320 IPC vis-a-vis the amendment Act No.25 of 2005 has been discussed in **2008(4) RCR (Crl.) 552, Manoj & Anr. v. State of Madhya Pradesh** by the Hon'ble Apex Court. The Hon'ble Apex Court has observed in para No.13 as follows:-

“It requires to be noticed that Criminal Procedure Code (Amendment) Act, 2005 [Act No.25/2005] amended Section 320 of the Code and in the Table under sub-section (2) (a) the words “voluntarily causing hurt by dangerous weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 has been omitted. But the said

amendment by Act No.25 of 2005 has not yet been brought into force. Therefore, the offence under Section 324 is still compoundable with the permission of the Court.”

[14]. In **2009(2) RCR (Crl.) 859, Mathura Singh and others v. State of U.P.**, the compounding phenomenon was applied to offence under Section 324 IPC after conviction of the accused by the Hon'ble Apex Court in a compromise before it. **Manoj and anothers'** case (supra) was relied upon in this case.

[15]. Similarly in **2014(3) RCR (Crl.) 578, Baghel Singh v. State of Punjab**, this Court by relying upon earlier judgment of this Court allowed the compounding of offence in respect of offence under Section 326 IPC at appellate stage, where the Court came to the conclusion that it will be starting point in maintaining peace between the parties.

[16]. Other High Courts have also taken similar view in the following precedents:

2013 CriLJ 1712 (Gauhati) Prabhat Das and ors. v. State of Tripura & Ors.; 2014(11) RCR (Crl.) 13 (Kerala), Bineesh v. State of Kerala; 2014(3) RajCriC 806 (Rajasthan), Hans Raj and another v. State of Rajasthan and another.

[17]. The State on notice, however, objects to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that both the parties have settled their dispute of private nature, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of

compromise.

[18]. Resultantly, FIR No.323 dated 07.06.2010 under Sections 287/338 IPC, Police Station City Hansi, District Hisar and judgment dated 13.05.2014 and order dated 14.05.2014 passed by Sub Divisional Judicial Magistrate, Hansi, District Hisar and all other subsequent proceedings arising therefrom are hereby quashed.

30.01.2017
prince

(RAJ MOHAN SINGH)
JUDGE

Whether Reasoned/Speaking

Yes/No

Whether Reportable

Yes/No