

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-17307 of 2017

.....

Date of decision:28.7.2017

Darshan Singh and others

.....Petitioners

v.

Tarsem Singh alias Sema and another

.....Respondents

....

Present: Mr. G.S. Brar, Advocate for the petitioners.

Mr. Gaurav Garg Dhuriwala, Senior Deputy Advocate General,
Punjab for the respondent-State.

None for the complainant-respondent No.1.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing/setting aside of complaint No.31 dated 20.10.2007 (Annexure-P.1) filed for the offences under Sections 323, 325, 307, 166, 167, 109, 111, 195, 120-B, 218, 148, 149, 217, 452, 330, 331, 341, 342, 348, 355, 357, 458 and 506 IPC (CIS No.34 of 2015 dated 30.9.2016, decided on 7.12.2016), at Police Station Phul, District Bathinda, judgment of conviction and order of sentence dated 7.12.2016 (Annexure-P.2) passed by learned Judicial Magistrate Ist Class, Bathinda and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.3) entered into between the parties.

The complaint has been filed by complainant-Tarsem Singh alias Sema on the allegations that the accused-petitioners, who are police

officials, and other police officials on govt. jeep came and forcibly entered into complainant's house. Inspector Sukhdev Singh started using abusive language and forcibly took him to Police Station, Phul. On the way, he used abusive language and on reaching the police station, he directed ASI Darshan Singh to get him falsely medically examined and a case regarding drinking of liquor and creating trouble should be registered against him. The SHO said as the complainant has implicated SI Resham Singh in a vigilance trap and he goes to Congress rallies, so he be taught a lesson in the police station. After the trial in the said complaint, the learned Judicial Magistrate Ist Class, Bathinda, vide its judgment of conviction and order of sentence dated 7.12.2016 convicted the accused-petitioners for the offences under Sections 452, 323, 342, 506 read with Section 120-B IPC and sentenced them to undergo rigorous imprisonment for two years each and to pay a fine of ₹500/- each and in default of payment of fine to undergo rigorous imprisonment for one month each under Section 452 read with Section 120-B IPC and other sentences. Thereafter, the petitioners filed appeal against the impugned judgment and order before the learned Sessions Judge, Bathinda, which is pending. During the pendency of appeal, with the intervention of the respectable persons of both the parties on 5.5.2017, a written compromise (Annexure-P.3) has been effected between the parties and in view of the above said compromise, complainant-respondent No.1 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 appellate Court for

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getting their statements recorded in support of the compromise. After doing the needful, learned Additional District & Sessions Judge, Bathinda, before whom the appeal is pending, has sent his report dated 18.7.2017 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 Senior Deputy Advocate General, Punjab, on instructions from the Investigating Officer admits the factum of compromise and submits 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 petitioners as well as learned State counsel 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

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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.31 dated 20.10.2007 (Annexure-P.1) filed for the offences under Sections 323, 325, 307, 166, 167, 109, 111, 195, 120-B, 218, 148, 149, 217, 452, 330, 331, 341, 342, 348, 355, 357, 458 and 506 IPC (CIS No.34 of 2015 dated 30.9.2016, decided on 7.12.2016) and all subsequent proceedings arising out of the same are hereby quashed qua the petitioners only. The impugned judgment of conviction and order of sentence dated 7.12.2016 (Annexure-P.2) passed by passed by learned Judicial Magistrate Ist Class, Bathinda, vide which the petitioners have been convicted and sentenced for the offences under Sections 342, 452, 323, 506 read with Section 120-B IPC are set aside on the basis of compromise qua the petitioners only.

July 28, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No