

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-25909 of 2016 (O&M)
Date of Decision: 17.03.2017

Fateh Singh & another

--Petitioners

Versus

State of Punjab and another

--Respondents

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Barjesh Kumar Sharma, Advocate
for the petitioners.

Mr. Varun Sharma, A.A.G., Punjab.

Mr. Ramesh Sharma, Advocate for
respondent no.2/complainant.

TEJINDER SINGH DHINDSA.J

The instant petition has been filed under Section 482 Cr.P.C seeking quashing of F.I.R. No.08 dated 18.1.2011 under sections 353, 186, 419, 506 I.P.C, registered at Police Station, Sarabha Nagar, Ludhiana as also the judgement of conviction dated 19.2.2016 recorded by the Trial Court at Annexure P-2 and whereby the petitioners stand convicted for offence under Section 506 read with Section 34 I.P.C and have been sentenced to undergo SI for a period of 3 months each and to pay a fine of Rs.1,000/- each and in default thereof to further undergo SI for a period of 5 days.

The process of law was set in motion on the complaint of Rakesh Bhaskar, who was working as the District Controller, Food & Supplies and on the allegations that on 18.1.2011 while he was in office, the accused/petitioners herein entered his office under the influence of liquor and demanded money on the pretext of being Press Reporters. The accused

party having been confronted are stated to have gone away but returned after about 5 minutes by kicking open the door of the office, pushed aside a Peon standing near the door and thereafter having threatened and intimidated the complainant.

Counsel appearing for the petitioners submits that against the judgement of conviction an appeal has been preferred and which is pending adjudication. It is contended that after the conviction for offence under Section 506 I.P.C read with Section 34 I.P.C the matter has been compromised with the complainant.

This Court while issuing notice of motion on 1.8.2016 had directed the parties to appear before the 1st Appellate Court for recording of their statements in support of the compromise and a report with regard to veracity of the compromise had been called for.

Placed on record is a report dated 9.8.2016 of the learned Additional Sessions Judge, Ludhiana and a perusal of the same would reveal that statements of the complainant as also accused party/petitioners herein have been duly recorded and it has been opined that a compromise has been entered into voluntarily and without any pressure or coercion.

Complainant/respondent no.2 is represented by Mr. Ramesh Sharma, Advocate and who also submits that in the light of the compromise effected he would not oppose the prayer made in the present petition.

Counsel for the parties have been heard.

The scope of power exercisable by the High Court under Section 482 of the Code of Criminal Procedure came to be considered by the Hon'ble Supreme Court in **Gian Singh v. State of Punjab (2012)4 RCR (Crl.) 543** and it was held that compounding of an offence and quashing of

criminal proceedings are two separate things. The extent of the inherent power under Section 482 of the Code of Criminal Procedure as opposed to the power of compounding of offence under Section 320 of Code of Criminal Procedure were held to be distinct and different although ultimate consequence may be the same. It was further held that where the offender and the victim had settled their dispute, the High Court in exercise of its inherent power under Section 482 of the Code of Criminal Procedure is competent to quash the criminal proceedings even relating to non-compoundable offences. A caution, however, was sounded that such power was to be invoked sparingly and not in relation to offences which were heinous or involved mental depravity of the like of murder, rape, dacoity etc.

As to whether criminal proceedings can be quashed by the High Court in exercise of its power under Section 482 of the Code of Criminal Procedure even after the accused has been found guilty and convicted by the trial Court even though the matter may be pending in appeal before the Appellate Court came up for consideration before a Division Bench of this Court in **Sube Singh and another v. State of Haryana and another, 2013 (4) RCR (Criminal) 102.** Such question was answered in the affirmative and is in the following terms:

“(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 Criminal Procedure Code to quash the criminal proceedings on the basis of compromise entered into between the parties can be invoked even if the accused has been held guilty and convicted by the trial Court, we find that in Dr.Arvind Barsaul etc. vs. State of Madhya Pradesh & Anr., 2008(2) R.C.R. (Criminal) 910: (2008) 5 SCC 794, the

unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498-A Indian Penal Code and sentenced to 18 months' imprisonment and his appeal was pending before the first appellate court. The Apex Court quashed the criminal proceedings keeping in view the peculiar facts and circumstances of the case and in the interest of justice observing that "continuation of criminal proceedings would be an abuse of the process of law" and also by invoking its power under Article 142 of the Constitution. Since the High Court does not possess any power akin to the one under Article 142 of the Constitution, the cited decision cannot be construed to have vested the High Court with such like unparallel power.

(17) The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 Criminal Procedure Code with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 Criminal Procedure Code but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case."

As per facts in Sube Singh's case (supra), the accused had been held guilty by the trial Court for offences under Sections 420, 467, 468 read with Section 120-B of the Indian Penal Code. The Division Bench had intervened in the matter on the basis of a compromise and had set at naught the entire criminal proceedings including the judgment of conviction.

Following the dictum laid down by Hon'ble Supreme Court in **Gian Singh's** case (supra) and in the Division Bench judgement of this Court in **Sube Singh and another's** case (supra), the present petition is allowed. The impugned F.I.R. No.08 dated 18.1.2011 under sections 353, 186, 419, 506 I.P.C, registered at Police Station, Sarabha Nagar, Ludhiana,

is quashed in the light of the compromise having been arrived at between the parties. As a necessary corollary the judgement of conviction dated 19.2.2016, passed by learned A.C.J.M., Ludhiana (Annexure P-2) against the petitioners, is set aside. Resultantly, the appeal preferred by the petitioners against the aforenoticed judgement of conviction dated 19.2.2016 would be rendered infructuous and shall be so declared by the 1st Appellate Court at Ludhiana.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

17.03.2017

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Whether speaking/reasoned:	Yes
Whether Reportable:	Yes