

261

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

CRM-M No.35347 of 2016

Date of Decision: 06.03.2017

SUDHIR AND ANR.

.....Petitioners

Vs

STATE OF HARYANA

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. S.K. Tripathi, Advocate
for the petitioners.

Ms. Gaganpreet Kaur, A.A.G., Haryana.

RAJ MOHAN SINGH, J. (Oral)

[1]. Prayer in this petition is for quashing of FIR No.27 dated 04.04.2013 registered under Sections 279/337/338 IPC at Police Station Jatusana, District Rewari and consequent criminal proceedings arising out of judgment of conviction dated 02.09.2015 and order of sentence dated 03.09.2015 passed by Judicial Magistrate 1st Class, Kosli, on the basis of compromise.

[2]. Petitioner No.1 was the accused in the aforementioned FIR, whereas petitioner No.2 was the complainant. Both have filed the present petition for quashing of FIR and consequent proceedings arising out of judgment of conviction and order of sentence for which the appeal is statedly pending before the Additional Sessions Judge, Rewari where the statements of the

parties in the context of compromise were also recorded, but the case was adjourned for arguments on 27.04.2016. Thereafter the present petition came to be filed.

[3]. This Court vide order dated 03.10.2016 directed the parties to appear before the *Illaq*a Magistrate/trial Court for recording their statements in the context of genuineness of the compromise in question.

[4]. In pursuance to the aforesaid order, both the parties appeared before the Sub-Divisional Judicial Magistrate, Kosli on 04.11.2016 and got their statements recorded. The Magistrate has also found the compromise in question to be genuine, voluntary and without any coercion or undue influence. The accused was never declared as a proclaimed person by any Court.

[5]. This Court is of the opinion that offence is private in nature and not against the whole society. Appeal against conviction is pending. In **Sube Singh & Another vs. State of Haryana and Another, 2013(4) RCR (Crl.) 102**, this Court held that magnitude of inherent powers is wide enough to cover proceedings in appeal also so as to prevent abuse of law and to achieve ends of justice. The compromise would facilitate both the parties to live in peace and to maintain public tranquility and offence in question is 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. Therefore, when parties have resolved their differences, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent unnecessary continuation of proceedings which may ultimately result in some unnecessary vagaries of criminal trial/appeal.

[6]. In **Deva Ram vs. State of Rajasthan, 2014(3) RCR (Crl.) 854,** 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.

[7]. Compoundable nature of offence under Section 320 IPC vis-a-vis the amendment Act No.25 of 2005 has been discussed in **Manoj & Anr. vs. State of Madhya Pradesh, 2008(4) RCR (Crl.) 552,** 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.”

[8]. In **Mathura Singh and others vs. State of U.P. 2009(2) RCR (Crl.) 859**, 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.

[9]. Similarly in **Baghel Singh vs. State of Punjab, 2014(3) RCR (Crl.) 578**, this Court by relying upon earlier judgment of this Court allowed of 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.

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

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

[11]. The State on notice, however, objected 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.

[12]. Resultantly, FIR No.27 dated 04.04.2013 registered under Sections 279/337/338 IPC at Police Station Jatusana, District Rewari and judgment of conviction dated 02.09.2015 and order of sentence dated 03.09.2015 passed by Judicial Magistrate Ist Class, Kosli and all the subsequent proceedings arising therefrom are quashed.

March 06, 2017

Atik

Whether speaking/reasoned

Whether reportable

**(RAJ MOHAN SINGH)
JUDGE**

Yes/No

Yes/No