

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

**CRM-M-35742 of 2016
Date of decision : 30.3.2017**

Seema and others

.....Petitioners

v.

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE (DR.) SHEKHER DHAWAN

Present: Mr. Arnav Sood, Advocate, for the petitioners.

Mr. Rajat Bansal, AAG, Punjab

Mr. K.S. Sandhu, Advocate, for
Mr. S.S. Brar, Advocate for respondent No.2

SHEKHER DHAWAN, J.

Present petition is for quashing of FIR No. 47 dated 18.11.2011, under Sections 452, 323, 324, 427, 148 and 149 IPC, registered at Police Station Narot Jaimal Singh, District Gurdaspur, on the basis of compromise dated 12.8.2016 (Annexure P-5) including the judgment of conviction dated 28.4.2015 and, after revision by the learned Sessions Judge, order of sentence dated 12.5.2016, passed by the Additional Chief Judicial Magistrate, Pathankot, whereby the petitioners have been convicted and sentenced to undergo rigorous imprisonment for two years under Sections 323, 324, 427 and 452 IPC.

2. During the course of preliminary hearing, the trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise dated 12.8.2016, by this Court.

3. In compliance thereof, report from the District & Sessions Judge, Pathankot has been received with statement of parties, in which, it has been mentioned that the compromise is genuine and there was no undue influence or coercion from any side.

4. The Hon'ble Full Bench of this Court in case “**Kulwinder Singh v. State of Punjab and another**, 2007(3) RCR (Criminal) 1052” and Hon'ble Division Bench of this Court in case “**Sube Singh and another v. State of Haryana and another**, 2013(4) RCR (Criminal) 102” observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

5. An identical question came to be decided by the Hon'ble Supreme Court in case **Gian Singh Versus State of Punjab and another**, 2012(4) RCR (Criminal) 543. Having interpreted the relevant provisions and considered a line of the judgment on the pointed points, it was ruled (para 57) as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and

gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc., cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The same view was again (recently) reiterated by Hon'ble the Apex

Court in case “**Narinder Singh and others Vs. State of Punjab and another,**
2014(2) RCR (Criminal) 482”.

6. Having regard to the contentions of learned counsel for the parties and the fact that the matter has already been settled between the parties with the intervention and the compromise shall give an opportunity to them to live peacefully in future as well. Hence, it would be in the interest and justice that parties are allowed to compromise the matter. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of disputes between the parties, the present petition deserves to be accepted in this context.

7. In view of above, the instant petition is accepted. Consequently, the impugned FIR No. 47 dated 18.11.2011, under Sections 452, 323, 324, 427, 148 and 149 IPC, registered at Police Station Narot Jaimal Singh, District Gurdaspur, and all other consequent proceedings arising thereto, are hereby quashed, on the basis of compromise dated 12.8.2016, qua the petitioners only.

The impugned judgment of conviction dated 28.4.2015 and order of sentence dated 12.5.2016, passed by the Additional Chief Judicial Magistrate, Pathankot, is set aside. The appeal preferred by the petitioners against the aforesaid judgment is rendered infructuous and shall be declared so by the First Appellate Court.

(SHEKHER DHAWAN)
JUDGE

30.03.2017
Ashwani

Speaking/reasoned	:	Yes/No
Reportable	:	Yes/No