

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

CRM-M No. 36346 of 2016
Date of Decision: 17.02.2017

Nirmal Singh and others

.....Petitioners

Vs

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. Gopal Singh Nahel, Advocate
for the petitioners.

Ms.Rimplejeet Kaur, AAG, Punjab.

RAJ MOHAN SINGH, J. (oral)

[1]. Prayer in this petition is for quashing of FIR No. 73 dated 26.07.2009 registered under Sections 326, 324, 323, 148, 149 IPC at Police Station Sherpur, District Sangrur (Annexure P-1) as well as all the subsequent proceedings arising therefrom on the basis of compromise.

[2]. Vide order dated 11.01.2017, parties were directed to appear before the lower Appellate Court and the lower Appellate

Court was directed to record their statements and submit its report qua the genuineness of the compromise effected between the parties.

[3]. In pursuance of said order, Additional Sessions Judge, Sangrur, after recording statements of the parties, has reported that the compromise effected between the parties is genuine, voluntary and without any undue influence and coercion.

[4]. This Court is of the opinion that offence is private in nature and not against the whole society. Appeal against conviction is pending. In **2013(4) RCR (Crl.) 102, Sube Singh & Another v. State of Haryana and Another**, 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.

[5]. 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.

[6]. 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.”

[7]. 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.

[8]. Similarly in **2014(3) RCR (CrI.) 578, Baghel Singh v. State of Punjab**, 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.

[9]. 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 (CrI.) 13 (Kerala), Bineesh v. State of Kerala; 2014(3) RajCriC 806 (Rajasthan), Hans Raj and another v. State of Rajasthan and another.

[10]. 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.

[11]. Resultantly, FIR No. 73 dated 26.07.2009 under Sections 326, 324, 323, 148, 149 IPC, Police Station Sherpur, District Sangrur, judgment of conviction and sentence dated 29.09.2015, passed by Sub Divisional Judicial Magistrate, Dhuri and all the subsequent proceedings arising therefrom, are quashed.

(RAJ MOHAN SINGH)
JUDGE

17.02.2017

jyoti Y.

Whether Reasoned/Speaking : Yes/No

Whether Reportable : Yes/No