

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CRM No. M-37773 of 2016 (O&M)

Date of Decision: 17.04.2017

Sukhwinder Singh & others

--Petitioners

Versus

State of Punjab & others

--Respondents

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

Present:- Mr. A.S. Mann, Advocate for the petitioners.

Mr. P.S. Madahar, A.A.G., Punjab.

Mr. S.K. Garg, Advocate for respondents no.2 to 4.

TEJINDER SINGH DHINDSA.J

This order shall dispose of the instant petition filed under Section 482 Cr.P.C praying for quashing of FIR No.50 dated 28.5.2007 registered under sections 323, 324, 148, 149 I.P.C (challan presented, charges framed and convicted under sections 323, 324, 325, 326, 148, 149 I.P.C) at police Station, Boha, District Mansa and all the proceedings emanating therefrom, on the basis of a compromise that has been arrived at between the parties.

A few facts that would require notice are that FIR came to be registered on the statement of Raj Singh. It was alleged that on 27.5.2007 at about 1.30 P.M he was present in his fields along with his wife Nasib Kaur and sister-in-law Sukhpal Kaur. In the meantime, the accused party/petitioners herein attacked them. Gurjant Singh (petitioner no.3) is stated to have caused an injury on the ear of Raj Singh complainant by inflicting a *gandasa* blow. Complainant Raj Singh and Nasib Kaur are stated to have suffered fractures on account of joint beatings given by all the accused/petitioners herein. Sukhwinder Singh/petitioner no.1 is stated to have inflicted a *gandasa* blow to Sukhpal Kaur resulting in the amputation

of her little finger.

In pursuance to the registration of FIR, challan was filed and charges were framed against the petitioners. Having faced trial the petitioners vide judgement dated 28.4.2014, passed by the learned S.D.J.M., Budhlada stand convicted and sentenced for offences under sections 148, 323, 324, 325, 326 I.P.C read with section 149 I.P.C. Undisputedly, an appeal preferred by the petitioners against the judgement of conviction is pending before the lower appellate court at Mansa.

It so transpires that during the pendency of appeal petitioners have entered into a compromise with the complainant party.

On 21.10.2016, while issuing notice of motion in the instant petition, Mr. S.K. Garg, Advocate had put in appearance on behalf of respondents no.2 to 4 and had conceded to the factum of a compromise having been entered into. Accordingly, parties had been directed to appear before the Trial Court/Illaq Magistrate for getting their statements recorded in support of the compromise.

Placed on record is a report dated 30.11.2016 of the learned J.M.I.C., Budhlada and a perusal thereof would reveal that the statements of Raj Singh complainant, Sukhpal Kaur and Nasib Kaur injured as well as the accused party/petitioners herein have been duly recorded and it has been opined that a compromise has been effected between the parties without any pressure or coercion.

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. Adverting back to the facts of the present case the dispute between the parties was with regard to irrigation of agricultural land. The parties belong to the same village. Even counsel representing the complainant makes a statement during the course of hearing today that he would have no

objection to the prayer made in the present petition to be accepted in the light of the compromise that has been thrashed out with the intervention of the respectables. Counsel further submits that such compromise would certainly promote peace and harmony amongst the residents of the village.

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 FIR No.50 dated 28.5.2007 registered under sections 323, 324, 148, 149 I.P.C (challan presented, charges framed and convicted under sections 323, 324, 325, 326, 148, 149 I.P.C) at police Station, Boha, District Mansa, is quashed in the light of the compromise having been arrived at between the parties. As a necessary corollary the judgement of conviction dated 28.4.2014 as also the order of sentence passed by learned S.D.J.M., Budhlada against the petitioners, is set aside. Resultantly, the appeal preferred by the petitioners against the afore noticed judgement of conviction dated 28.4.2014 would be rendered infructuous and shall be so declared by the 1st Appellate Court at Mansa.

Petition is allowed in the aforesaid terms.

(TEJINDER SINGH DHINDSA)
JUDGE

17.04.2017

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Whether speaking/reasoned:	Yes
Whether Reportable:	No