

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

CRM-M No.40098 of 2017

Date of decision: November 21, 2017

Jagpal Singh and others

....Petitioners

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. J.S. Khiva, Advocate
for the petitioners.

Ms. Jaspreet Kaur, AAG, Punjab
for respondent No.1-State.

Ms. Nisha Malik, Advocate
for respondent No.2.

SHEKHER DHAWAN, J. (ORAL)

Present petition under Section 482 of Code of Criminal Procedure (for short, “the Code”) is for setting aside the judgment of conviction and order of sentence dated 12.12.2016 passed by learned Judicial Magistrate Ist Class, Mansa in case FIR No.09 dated 08.02.2015, under Sections 382, 323, 506 of Indian Penal Code, registered at Police Station Kot Dharmu, District Mansa on the basis of compromise dated 01.08.2017 (Annexure P/5). The petitioners were convicted and sentenced as under:-

Name of the accused	Under Section	Imprisonment	ID of payment of Fine
Jagpal Singh	323, 34, 382 IPC	To undergo rigorous imprisonment for a period of one year and to a pay fine of Rs.1000/-	To further undergo rigorous imprisonment for a period of five months and fine of Rs.1000/- in default of payment of fine accused will further undergo rigorous imprisonment for thirty days.
Sandeep Singh	323, 34, 382 IPC	To undergo rigorous imprisonment for a period of one year and to a pay fine of Rs.1000/-	To further undergo rigorous imprisonment for a period of five months and fine of Rs.1000/- in default of payment of fine accused will further undergo rigorous imprisonment for thirty days.
Kali Singh	323, 34, 382 IPC	To undergo rigorous imprisonment for a period of one year and to a pay fine of Rs.1000/-	To further undergo rigorous imprisonment for a period of five months and fine of Rs.1000/- in default of payment of fine accused will further undergo rigorous imprisonment for thirty days.

All the sentence were ordered to run concurrently.

2. Learned counsel for the petitioners contended that after conviction, the parties have entered into compromise dated 8.12.2014 (Annexure P/3). Petitioner No.1 and petitioners No.2 & 3 preferred separate appeals titled “**Jagpal Singh Vs. State of Punjab**” and “**Sandeep Singh and another Vs. State of Punjab**”, respectively in the Court of Sessions Judge, Mansa and the same are pending adjudication. However, with the intervention of respectable persons of village and Panchayat, the parties have settled the dispute amicably and executed compromise deed dated 01.08.2017 (Annexure P/5). So, the present petition be accepted and judgment of conviction and order of sentence be set-aside.

3. Learned State counsel contended that the present petition is not maintainable as the appeals filed by the petitioners before the First Appellate Court is pending. However, learned counsel representing respondent No.2 affirmed the genuineness of the compromise, Annexure

P/5.

4. On filing of the petition, vide order dated 26.10.2017, directions were issued to the Court below to record statements of the parties so as to affirm the genuineness of the compromise and in compliance thereof, report from the Addl. District and Sessions Judge, Mansa has been received through the District and Sessions Judge, Mansa to the effect that the compromise is without any inducement, threat and pressure and is being made with their own consent, free will and without any coercion and the same has been arrived at between the parties voluntarily and out of their free will.

5. Since the present petition is for quashing of criminal proceedings after recording of judgment of conviction and order of sentence, the similar controversy was before Hon`ble Apex Court in **Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543** and Hon'ble Apex Court ruled that where the offender and victim have settled their dispute, the High Court in exercise of its inherent powers under Section 482 of the Code is competent to quash criminal proceedings even relating to the non-compoundable offences though such a power need to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc.

6. In the present case, the issue involved is - whether power under Section 482 of the code to quash criminal proceedings on the basis of compromise arrived at between the parties, can be invoked even if the accused has been held guilty and convicted by the trial Court, similar matter was before Hon'ble Division Bench of this Court in case **Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal)**

102, wherein view was taken by Hon`ble Apex Court that in such cases, with a view to prevent the abuse of law or to secure the ends of justice, however, magnitude of inherent jurisdiction exercisable by the High Court under Section 482 of the Code 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 of the Code but such a power is exercisable at any stage.

7. The same view has been recently reiterated by Hon'ble the Apex Court in case **Padmalayan and another Vs. Sarasan and another, 2014(1) RCR (Criminal) 868.**

8. On the basis of report received from learned District & Sessions Judge, Mansa, it stands established before this Court that the compromise, Annexure P/5 arrived at between the parties is without any inducement, threat and pressure and is being made with their own consent, free will and without any coercion. Moreover, learned counsel for the parties are *ad idem* that, in view of the settlement of dispute between the parties, the present petition deserves to be accepted.

9. In view of above, the present petition is accepted and the judgment of conviction and order of sentence dated 12.12.2016 passed by learned Judicial Magistrate First Class, Mansa in case FIR No.09 dated 08.02.2015, under Sections 382, 323 and 506 IPC, registered at Police Station Kot Dharmu, District Mansa and all other consequent proceedings arising thereto are hereby quashed qua the petitioners, on the basis of compromise dated 01.08.2017 (Annexure P/5). Resultantly, the petitioners shall stand acquitted in the present FIR.

10. However, the appeals preferred by the petitioners against the above mentioned judgment of conviction and order of sentence would be rendered infructuous and shall be so declared by the First Appellate Court at Mansa. Copy of this order be sent to learned Addl. Sessions Judge, Mansa for information and necessary compliance.

11. The present petition stands allowed in the above terms.

November 21, 2017
m. sharma

(SHEKHER DHAWAN)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No