

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Misc. No.M-42531 of 2016

.....

Date of decision:28.8.2017

Sukhdev Singh

.....Petitioner

v.

State of Punjab and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. A.S. Brar, Advocate for the petitioner.

Ms. Simranjit Kaur, Assistant Advocate General, Punjab
for the respondent-State.

Mr. V.R. Lamba, Advocate for the complainant-respondent
No.2.

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Inderjit Singh, J.

This petition has been filed under Section 482 Cr.P.C. praying for quashing of complaint No.RT-72/9.7.2012 filed under Sections 323, 324, 364-A, 295-A, 506, 365 and 34 IPC; setting aside of judgment of conviction and order of sentence dated 15.1.2016 passed by learned Judicial Magistrate Ist Class, Moga and all subsequent proceedings arising therefrom in view of the compromise (Annexure-P.2).

The complaint has been filed by the complainant-Gurdeep Singh on the allegations that the accused-petitioner along with his accomplices tried to encroach upon the 11 feet street and the complainant reported the matter to the Panchayat, which restrained them for doing so.

On 29.5.2009 at about 8.15 a.m. when the complainant came out of his

house, then he saw that the said accused were trying to close the street by constructing the wall. When he tried to stop them from doing so, then the accused pushed away the complainant due to which his turban fell in the street and accused No.1 threw a brick towards the head of the complainant with an intention to kill him which hit on the left side of his head due to which he fell down and they forcibly brought him into their house and locked him in a room and also gave threats that if anybody came into their house with an intention to get him released, then they will kill him. After the trial, complaint qua accused Sukhjinder Singh and Charan Singh was dismissed for want of prosecution. The petitioner was convicted for the offences under Sections 323, 324 and 506 IPC and was acquitted for the offences under Sections 295-A and 365 IPC. He was sentenced to undergo rigorous imprisonment for one year each for the offences under Sections 323, 324 and 506 IPC. All the sentences were ordered to run concurrently vide judgment and order dated 15.1.2016 passed by learned Judicial Magistrate Ist Class, Moga. Thereafter, the petitioner filed appeal against the impugned judgment and order before the learned Sessions Judge, Moga, which is pending. During the pendency of the appeal, with the intervention of the respectable persons of both the parties, a written compromise has been effected between the parties and in view of the above said compromise, respondent No.2 does not want to proceed with the case.

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned appellate Court for getting their statements recorded in support of the compromise. After doing

the needful, learned Additional District & Sessions Judge, Moga, before whom the appeal is pending, has sent report dated 5.8.2017 submitting that the compromise arrived at between the parties is without any pressure or coercion from any one and the same is genuine one.

Learned Assistant Advocate General, Punjab, on instructions from the Investigating Officer and learned counsel for complainant-respondent No.2 admit the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the complaint in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the parties as well as learned Assistant Advocate General, Punjab and have gone through the record.

The Hon'ble Supreme Court in Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another, 2008 (2) R.C.R. (Cr.) 910, has held that proceedings after conviction can be quashed.

This Court in Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Cr.) 102, has held as under:-

“In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-

[4]

acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.”

This Court in Satya Narain v. State of Haryana, 2009 (3) R.C.R. (Cr.) 97 and Lal Chand v. The State of Haryana, 2009 (5) R.C.R. (Cr.) 838, has held that High Court is vested with unparallel power to quash criminal proceedings at any stage to secure ends of justice. The parties have buried their hatchet, though at a belated stage, it was held, that if compromise is accepted and proceedings are quashed, it will go a long way, to create better relations between the parties. Therefore, it was observed that it is a fit case for quashing of FIR, conviction and sentence recorded by the trial Court.

In a decision, based on compromise, none of the parties is a loser. Rather, compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

Therefore, keeping in view the fact that the matter has been

[5]

amicably settled between both the parties and the law laid down by the Hon'ble Supreme Court in Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543, and Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another (supra) and by this Court in Sube Singh and another v. State of Haryana and another (supra), Satya Narain v. State of Haryana (supra), and Lal Chand v. The State of Haryana (supra), this petition is allowed. Complaint No.RT-72/9.7.2012 filed under Sections 323, 324, 364-A, 295-A, 506, 365 and 34 IPC; the impugned judgment of conviction and order of sentence dated 15.1.2016 passed by learned Judicial Magistrate Ist Class, Moga, vide which the petitioner has been convicted and sentenced for the above offences and all subsequent proceedings arising out of the same are hereby quashed/set aside on the basis of compromise qua the petitioner only.

August 28, 2017.

(Inderjit Singh)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No