

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

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Crl. Misc. M 44497 of 2016
Date of decision: 02.03.2017

Gagandeep Singh

..... *Petitioner*

Versus

State of Punjab and another

.....*Respondents*

Coram: Hon'ble Mrs. Justice Rekha Mittal

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Present: Mr. Rajan Bansal, Advocate
for the petitioner

Mr. Mikhail Kad, AAG, Punjab

Ms Sunita Gupta, Advocate for
Mr. RVS Chug, Advocate
for respondent No. 2

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Rekha Mittal, J.

Through the present petition filed under Section 482 of the Code of Criminal Procedure (in short, 'the Code'), the petitioner prays for compounding of offence punishable under Sections 498-A, 406, 323, 326 and 506 read with Section 34 of the Indian Penal Code in a criminal complaint No. 59 dated 30.10.2009 titled *Sukhjinder Kaur vs. Gagandeep Singh and others*.

Counsel for the petitioner has submitted that in the present case, the petitioner stands convicted vide judgment dated 18.05.2016 passed by the Judicial Magistrate Ist Class, Mansa for offence punishable under Sections 406 and 498-A IPC and appeal preferred against said judgment is pending before the Appellate Court. However, during pendency of the appeal, the petitioner and complainant/respondent No. 2 have compromised the matter.

Vide this Court's order dated 27.01.2017, the parties were directed to appear before Appellate Court for recording their statements. Simultaneously, the Appellate Court was also directed to submit its report with regard to genuineness of compromise arrived at between the parties.

Pursuant thereto, the parties appeared before the Appellate Court and got recorded their statements. A report has been received from Additional Sessions Judge, Mansa stating therein that the matter has been compromised between the parties without any coercion or undue influence.

Counsel for the State of Punjab has not disputed genuineness of the compromise arrived at between the parties in view of report furnished by the Court below.

Counsel for respondents No. 2 and 3 has conceded to the position.

I have heard counsel for the parties and perused the records.

A Division Bench of this Court in ***Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Criminal) 102*** held that it would be open for this Court to exercise its power under Section 482 of the Code even after the accused was found guilty and convicted by the trial

Court though the matter is sub judice before the Appellate Court. A relevant extract from the judgment is usefully quoted hereunder:-

*(16) As regards the doubt expressed by the learned Single Judge whether the inherent power under Section 482 CrPC 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) 5 SCC 794**, the unfortunate matrimonial dispute was settled after the appellant (husband) had been convicted under Section 498-A IPC 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 CrPC 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 CrPC 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.

A perusal of the allegations of aforesaid complaint reveals that the present case squarely falls in that category of cases which can be quashed by the High Court in exercise of its inherent power under Section 482 Cr.P.C.

Keeping in view the authoritative enunciation of law laid down by Hon'ble the Supreme Court in '**Gian Singh v. State of Punjab and another**', 2012(4) R.C.R. (Criminal) 543 and by this Court in *Sube Singh's* case (supra) coupled with genuineness of the compromise arrived at between the parties as reported by the Appellate Court, judgment dated 18.05.2016 passed by the Judicial Magistrate Ist Class, Mansa (Annexure P2), convicting and sentencing the petitioner is set aside by quashing complaint No. 59 dated 30.10.2009 titled *Sukhjinder Kaur vs. Gagandeep Singh and others* (Annexure P1) for offence punishable under Sections 498-A, 406, 323, 326 and 506 read with Section 34 IPC and proceedings emanating therefrom.

(Rekha Mittal)
Judge

02.03.2017
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Whether speaking/reasoned: Yes/No
Whether reportable : Yes/No