

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

**CRM No.M-45388 of 2016 (O&M)
Date of decision: 07.03.2017**

Sukhwinder Singh & others

... Petitioners

Versus

State of Punjab & another

... Respondents

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

Present: Mr. G.S. Nahel, Advocate for the petitioners.

Mr. Varun Sharma, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of the instant petition filed under Section 482 Cr.P.C. seeking quashing of FIR No.87 dated 20.10.2011, under Sections 323/324/506/34 IPC, registered at Police Station Sandaur, District Sangrur and all other proceedings emanating therefrom on the basis of compromise, which as per counsel has been entered into between the parties.

Few facts that would require notice are that the FIR came to be registered on the statement of Krishan Singh. Petitioner No.2, Jagdev Singh is the real brother of the complainant whereas petitioner Nos.1 and 3 are son and grandson respectively of petitioner No.2. The parties, as such, are closely related to each other. The occurrence that is stated to have taken place on 19.10.2011 is on account of a dispute over a passage between the land holding of the parties and on account of a ditch having been dug over such passage/Rasta by the accused party.

In pursuance to the registration of the case, challan was filed and charges were framed against the petitioners. Having faced trial, the petitioners vide judgment dated 21.08.2015 rendered by the trial Court were convicted under Sections 323/324/506 IPC and Section 34 IPC but were granted benefit of probation. Appeal having been preferred, the same is concededly pending adjudication before the Appellate Court.

It so transpires that during the pendency of the appeal, the parties have entered into a compromise. Pursuantly, even a formal compromise deed was reduced into writing and the same has been placed on record at Annexure P-3.

This Court while issuing notice of motion on 19.12.2016 had directed the parties to put in appearance before the lower Appellate Court for recording of their statements as regards the compromise.

In pursuance to the directions issued by this Court, the statements of complainant, Krishan Singh as also of the accused party/petitioners herein were recorded by the learned Additional District and Sessions Judge, Sangrur. A report dated 01.02.2017 in this regard has been placed on record. Perusal of the report reveals that a compromise has been effected between the parties and it has been opined that the same is voluntary and 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."

Following the dictum laid down by the Hon'ble Supreme Court in **Gian Singh's case (supra)** and by a Division Bench of this Court in **Sube Singh's case (supra)**, the present petition is allowed. The impugned FIR No.87 dated 20.10.2011, under Sections 323/324/506/34 IPC, registered at Police Station Sandaur, District Sangrur and all proceedings emanating therefrom stands quashed qua the present petitioners in the light of the compromise having been arrived at between the parties. As a necessary corollary, the judgment of conviction dated 21.08.2015 is set aside. Resultantly, the appeal preferred by the petitioners against the judgment of conviction dated 21.08.2015 would be rendered infructuous

and shall be so declared by the first Appellate Court, Sangrur.

Petition allowed in the aforesaid terms.

07.03.2017

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

- i) Whether speaking/reasoned? Yes
- ii) Whether reportable? Yes