

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

CRR No.3651 OF 2015 (O&M)
DATE OF DECISION : 16th FEBRUARY, 2017

Balwinder Singh

.... Petitioner

Versus

State of Punjab & others

.... Respondents

CORAM : HON'BLE MR. JUSTICE A. B. CHAUDHARI

* * * *

Present : Mr. H.P.S. Ghuman, Advocate for the petitioner and
for the applicant in CRM-27812-2016.

Mr. Abhishek Chautala, Assistant Advocate General,
Punjab.

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A. B. CHAUDHARI, J. (ORAL)

CRM-31982-2015

Allowed as prayed for.

CRM-31983-2015

For reasons mentioned in the application, which is accompanied by affidavit, delay of 449 days in filing the revision petition is condoned.

CRM-30946-2016 & CRM-27812-2016

1. Heard learned counsel for the rival parties.
2. The revision petitioner-Balwinder Singh filed CRR-3651-2015 in this Court for enhancement of sentence awarded to Mohan Singh and Himat Singh who were convicted by the trial Court and Mohan Singh was sentenced to imprisonment for 4 years and Himat Singh was ordered to be released on probation. The petitioner Balwinder Singh has also

filed a criminal appeal against acquittal of the some of the accused in said FIR vide CRA-AD-63-2015 decided on 07.09.2016.

3. Karamjit Singh the maternal uncle of the petitioner is represented by Mr. H.P.S. Ghuman, Advocate.

4. During pendency of this revision petition for enhancement of sentence, the petitioner Balwinder Singh had filed an application for withdrawal of the CRA-AD-63-2015 before the Division Bench on the ground that they have arrived at compromise. In that appeal Karamjit Singh also appeared and objected to the withdrawal of the appeal before the Division Bench. The Division Bench passed detailed order after hearing all the parties concerned and overruled objection made by Karamjit Singh for withdrawal of the appeal. That orders appears to have attained finality. The Division Bench has recorded the reasons for overruling the objections raised by Karamjit Singh. The following portion from the said order made by the Division Bench is reproduced as under:

“At this stage, Mr. H.P.S. Ghuman, Advocate, who was earlier not present, has appeared and stated that he has filed a criminal miscellaneous application on behalf of Karamjit Singh, who is a witness in the case, for substituting the name of Karamjit Singh in place of Balwinder Singh. It is submitted that Karamjit Singh is the maternal uncle of Balwinder Singh (complainant) and the incident had taken place in his fields, as Mohan Singh (accused No. 4) wanted to take possession of this land. It is also submitted that the offence punishable under Section 307 IPC

is not compoundable.

We have given our thoughtful consideration to the contentions raised by Mr. H.P.S. Ghuman, Advocate. However, we find no merit in the same. It is to be noticed that Balwinder Singh (complainant) has filed the appeal and the application for leave to appeal and he does not wish to pursue or continue with the same insofar as Jagsir Singh and Davinder Singh (respondents No. 2 and 3) have been acquitted. Once they are acquitted by the Court of learned Additional Sessions Judge, Patiala, then the question of compounding the offence punishable under Section 307 IPC does not arise, as they stand acquitted and in the application for leave to appeal, leave has not been granted and before it has granted, a prayer has been made for withdrawal of the application; besides, appeal itself is barred by more than 446 days. Balwinder Singh (complainant) is present in Court. Learned counsel for the applicant/appellant has again asked him and on instructions from him stated that he does not wish to continue with the appeal. It is further submitted that there is no pressure or undue influence of any kind on him. It is further submitted that the land belongs to Karamjit Singh and he has nothing to do with the same.

5. Balwinder Singh has filed CRM-30946-2016 for withdrawal of the criminal revision petition on the similar lines.

6. This application for withdrawal is being opposed vehemently by learned counsel for Karamjit Singh. His contention is that the decision in the case of ***Sheo Nandan Paswan versus State of Bihar & others, 1987 AIR (SC) 877***, was not brought to the notice of the Division Bench nor the same is referred in the Division Bench order and therefore, this Court need not rely on the Division Bench order for deciding the present application for withdrawal of the criminal revision petition. On his instance I have gone through para 14 of the judgment of the Supreme Court in the case of ***Sheo Nandan Paswan (supra)***. The *ratio decidendi* of the said decision is that the complainant or a person feeling aggrieved by offence against the society does have a *locus standi* to object to such withdrawal in the larger public interest and therefore, the plea of *locus standi* was not available.

7. In the facts and circumstances of the present case the contention raised by Karamjit Singh is that the incident of fight has taken place in his field. Though, it is true that Balwinder Singh who was injured and lodged FIR and Karamjit Singh has not received any injury nor was victim in the offence which was tried. The fact that the incident has taken place in his land, is not enough to allow him to oppose the application on the plea for withdraw of the revision petition for enhancement of sentence.

8. Having carefully considered the rival submissions made by learned counsel for the rival parties, at the out set, I find that para 14 of the judgment of the Supreme Court has no application in the present case. The reason is that Karamjit Singh has a private dispute with the parties and as stated in the said judgment it has nothing to do with the protection

of the society. Though this was a case of offence under Section 307 IPC, the parameters laid down by the Apex Court in relation to the cases in which a citizen coming to court and opposing for interest of the society, do not apply in the present case. At any rate, it is right of the petitioner to withdraw his revision petition and if Karamjit Singh really felt aggrieved, he was never prevented to take required steps. Thus Karamjit Singh may have *locus standi*, but he cannot resist the withdrawal of the petition in the facts of the present case as it is clearly a dispute amongst the private parties and the interest of the society at large is not involved.

9. In that view of the matter and also in the light of the Division bench order dated 07.09.2016 as aforesaid, the application for withdrawal of the revision petition for enhancement of sentence will have to be allowed.

10. In view of the above, the application CRM-30946-2016 for withdrawal of the revision petition is allowed. The application CRM-27812-2016 for substitution of applicant as petitioner is dismissed.

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11. In view of the fact that the CRM-30946-2016 for withdrawal of the revision petition is allowed, the present revision petition stands dismissed as withdrawn.

16th February, 2017
'raj'

(A. B. CHAUDHARI)
JUDGE

Whether speaking/reasoned: Yes No

Whether Reportable: Yes No