

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

Date of Decision: 25.01.2018.

CRA-S-2249-SB-2010

Nanakdeen and others

...Appellants.

Versus

State of Haryana

...Respondent.

CRM-M-43030-2017

Nanakdeen and others

....Petitioners.

Versus

State of Haryana and others

...Respondents.

CORAM: HON'BLE MR. JUSTICE SHEKHER DHAWAN

Present: Mr. R.K. Agnihotri, Advocate for the appellants-petitioners.

Mr. Manish Bansal, Deputy Advocate General, Haryana.

Mr. Sandeep Kumar, Advocate for the complainant.

SHEKHER DHAWAN, J.

This order shall dispose of appeal (CRA-S-2249-SB-2010) as well as the petition (CRM-M-43030-2017) as both these cases are between the same parties and pertain to one F.I.R.

2. Present appeal (CRA-S-2249-SB-2010) is directed against judgment of conviction dated 26.08.2010 and order of sentence dated 28.08.2010 passed by learned Additional Sessions Judge, Yamuna Nagar at

Jagadhari convicting the appellants-petitioners under Sections 323, 324, 325 read with Section 34 of the Indian Penal Code (for short, 'IPC') in case FIR No.27 dated 01.03.2008 registered at Police Station Sadhaura and sentencing them as under:-

Name of convict	Offence U/S	Sentence awarded	Fine imposed	Sentence in default of payment of fine
Nanakdeen	323/34 IPC	One month, RI	Rs.1000/-	15 days, SI
	324/34 IPC	Three months, RI	Rs.1500/-	30 days, SI
	325/34 IPC	One year, RI	Rs.2000/-	40 days, SI
	506 IPC	--	Rs.500/-	7 days, SI
Wahid	323/34 IPC	One month, RI	Rs.1000/-	15 days, SI
	324/34 IPC	Three months, RI	Rs.1500/-	30 days, SI
	325/34 IPC	One year, RI	Rs.2000/-	40 days, SI
	506 IPC	--	Rs.500/-	7 days, SI
Jakir alias Jagra	323/34 IPC	One month, RI	Rs.1000/-	15 days, SI
	324/34 IPC	Three months, RI	Rs.1500/-	30 days, SI
	325/34 IPC	One year, RI	Rs.2000/-	40 days, SI
	506 IPC	--	Rs.500/-	7 days, SI

3. Vide order dated 22.09.2010, notice of motion in the appeal was issued. On the same day, the appeal was admitted and the appellants-petitioners were ordered to be released on bail during pendency of the appeal.

4. During pendency of the appeal, the parties, being residents of the same locality, have amicably compromised the matter with the intervention of the respectables and relatives and they have now decided to keep good relations in future. Thus, vide order dated 22.11.2017, on an application (CRM-34854-2017), the appeal was taken up on Board.

5. On the basis of compromise, the appellants-petitioners have also filed the petition (CRM-M-43030-2017) for quashing of the F.I.R. in question.

6. Accordingly, vide orders dated 22.11.2017 passed in both the cases, the parties were directed to appear before the trial Court/ Illaqa Magistrate on 18.12.2017 for getting their statements recorded with regard to the compromise arrived at between them. The trial Court was directed to record the statements of all the concerned parties, with regard to the genuineness and validity or otherwise of the compromise and to send its report to this Court.

7. In compliance of the order dated 22.11.2017, report from the Judicial Magistrate Ist Class, Sub Division, Bilaspur, has been received through District and Sessions Judge to the effect that the compromise is genuine and the same has been arrived at between the parties voluntarily and out of their free will.

8. Learned counsel for the appellants-petitioners contended that after conviction and during pendency of this appeal, the parties have entered into compromise dated 13.10.2017 (Annexure-P2 in the petition), therefore, the present appeal be accepted and the judgment of conviction as well as order of sentence be set aside.

9. On the other hand, learned State counsel and counsel for the complainant affirmed the genuineness of the compromise dated 13.10.2017 (Annexure-P2).

10. In the present case, the issue involved is - whether power under Section 482 Cr.P.C. 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 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 Cr.P.C. 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 Cr.P.C. but such a power is exercisable at any stage.

11. 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.**

12. Since during pendency of the appeal filed by the appellants against the impugned judgment of conviction and order of sentence, the parties have amicably settled their disputes and compromised the matter, the similar controversy was before Hon'ble Apex Court in case **Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal) 543.** Having interpreted the relevant provisions and considering a line of the judgment on the pointed points, it was ruled (para 57) as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In

what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matr committed by public servants while working in that capacity etc., cannot provide imony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

13. The same view was again reiterated by Hon'ble the Apex Court in case **“Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.**

14. On the basis of report received from learned Judicial Magistrate Ist Class, Sub Division Bilaspur, it stands established before this Court that the compromise, Annexure-P2 arrived at between the parties is genuine, willful and voluntary. Moreover, learned counsel for the parties are ad idem that, in view of the settlement of dispute between the parties, the present petition for quashing of F.I.R. deserves to be accepted.

15. In view of above, the petition (CRM-M-43030-2017) for quashing of the F.I.R. in question, is allowed and FIR No. 27 dated 01.03.2008, under Sections 323, 324, 506/34 IPC (Section 325 IPC added lateron), registered at Police Station Sadhaura, District Yamuna Nagar and all other consequent proceedings arising thereto are hereby quashed qua the appellants-petitioners. The judgment of conviction dated 26.08.2010 and order of sentence dated 28.08.2010 passed by learned Additional Sessions Judge, Yamuna Nagar at Jagadhari, are set aside, on the basis of compromise dated 13.10.2017 (Annexure-P2) arrived at between the parties. Resultantly, the appeal preferred by the appellants-petitioners against the above-mentioned judgment of conviction and order of sentence has rendered infructuous and is disposed of as such.

(SHEKHER DHAWAN)
JUDGE

25.01.2018.

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Whether Speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No