

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

CRA-S-1285-SB of 2017

DATE OF DECISION :- September 07, 2018

Kishore Kumar and another

...Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE H.S. MADAN

Present:- Mr. M.S. Sachdev, Advocate for the appellants.

Ms. Samina Dhir, DAG, Punjab.

Mr. Munish Kumar Chaudhary, Advocate for the complainant.

Accused Kishore Kumar, Renu Verma, Pinky Verma, Manjit Kaur and Amardeep Kumar faced trial by Additional Sessions Judge, S.A.S. Nagar, Mohali, who vide judgment dated 7.3.2017 convicted Kishore Kumar and Manjit Kaur for an offence under Section 406 IPC and sentenced them to undergo for a period of two years each and to pay a fine of Rs.5000/- each and in default of payment of fine they were ordered to further undergo rigorous imprisonment for six months each. The remaining accused Renu Verma, Pinky Verma and Amardeep Kumar were acquitted of the charge framed against them.

Feeling aggrieved by the said judgment of conviction and sentence, accused-convicts have preferred an appeal before this Court, notice of which was given to the State.

During the pendency of the appeal, the parties have effected compromise. Learned JMIC, S.A.S. Nagar, Mohali was directed to record the statements of the parties with regard to compromise. As per report of JMIC, S.A.S. Nagar, Mohali, complainant Jasmeet Kaur had appeared there and got her statement recorded to the effect that she has compromised the matter with the accused persons and she has no objection if F.I.R. is quashed subject to compliance of conditions of compromise between the parties. Accused-convicts Kishore Kumar and Manjit Kaur also got their statements recorded separately admitting the compromise. Learned JMIC, S.A.S. Nagar, Mohali has reported that the compromise has been entered into by the parties with free will, without any pressure, coercion or undue influence and none of the accused persons named by the complainant has been declared to be proclaimed offender. Statements of accused-convicts as well as of complainant have been forwarded to this Court.

I have heard learned counsel for the appellants, learned counsel for the complainant and learned State Counsel besides going through the record.

Learned counsel for the appellants has submitted that the complainant has withdrawn the appeal filed by her against acquittal of the remaining accused. He has further referred to judgment passed by a Division Bench of this Court 'Sube Singh and another versus State of Haryana and another' in CRM-38140-M-2011 (O&M) decided on 9.4.2013. He has further referred to judgments by the Coordinate Bench of this Court 'Pawan Kumar versus State of Haryana and another 2016(2) R.C.R. (Criminal) 176', wherein under similar circumstances when after conviction

appeal was pending but the parties had effected the compromise the conviction and sentence of appellants was set aside. The other authorities in that regard 'Chhota Singh versus State of Punjab 1997(2) R.C.R. (Criminal) 392', 'Raman Kumar Verma and another versus Smt. Lyuba Verma and another 2009(1) R.C.R. (Criminal) 424' have been referred to.

Under Section 320 Cr.P.C. an offence under Section 406 IPC for which the appellants-accused have been convicted is compoundable by the owner of the property to which the breach of trust have been committed with the permission of the Court. In terms of Sub-Section 5 the compounding of offences can be allowed by the Court where the appeal is pending.

Under that circumstances, I find that the compromise is in interest of peace and tranquility in the society and for such like reasons this Court can quash the FIR and ancillary proceedings exercising power under Section 482 Cr.P.C., by granting permission to compound the offences.

Accordingly, the petition is allowed. The judgment and decree passed by the Court below with regard to conviction of the appellants-accused for offence under Section 406 IPC is set aside and appellants are acquitted of the charge framed against them.

(H.S. MADAAN)
JUDGE

September 07, 2018
p.singh

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No