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

CRM-M No.11068 of 2016

Date of Decision: 28.02.2018

SURAJ GILL & ANR

.....Petitioners

Vs

STATE OF PUNJAB & ANR

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Kapil Khanna, Advocate
for the petitioners.

Mr. R.S. Thind, D.A.G., Punjab.

RAJ MOHAN SINGH, J. (Oral)

[1]. Prayer in this petition is for quashing of FIR No.47 dated 11.04.2010 registered under Sections 452, 323, 506, 148, 149 IPC at Police Station Division No.5, Jalandhar, District Jalandhar and consequent criminal proceedings arising out of judgment of conviction and order of sentence dated 03.08.2015 passed by Judicial Magistrate Ist Class, Jalandhar, on the basis of compromise.

[2]. The aforesaid FIR was registered at the instance of the complainant. Petitioners have filed the present petition for quashing of FIR and consequent proceedings arising out of

judgment of conviction and order of sentence against which an appeal is statedly pending before the lower Appellate Court.

[3]. The Co-ordinate Bench of this Court vide order dated 05.08.2017 directed the parties to appear before the trial Court for recording their statements in the context of genuineness of the compromise in question.

[4]. In pursuance of the aforesaid order, both the parties appeared before the Judicial Magistrate Ist Class, Jalandhar on 19.08.2016 and got their statements recorded. The Judicial Magistrate Ist Class, Jalandhar has also found the compromise in question to be genuine, voluntary and without any coercion or undue influence. The accused were never declared as a proclaimed person by any Court.

[5]. This Court is of the opinion that offence is private in nature and not against the whole society. Appeal against conviction is pending. In **Sube Singh & Another vs. State of Haryana and Another, 2013(4) RCR (Crl.) 102**, this Court held that magnitude of inherent powers is wide enough to cover proceedings in appeal also so as to prevent abuse of law and to achieve ends of justice. The compromise would facilitate both the parties to live in peace and to maintain public tranquility and offence in question is personal in nature and does not involve any heinous and serious offence of any mental depravity, nor it

involves any offence covered under Prevention of Corruption Act. Therefore, when parties have resolved their differences, continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation the exercise of power to quash the proceedings would be in consonance with the provisions of law to meet ends of justice and to prevent unnecessary continuation of proceedings which may ultimately result in some unnecessary vagaries of criminal trial/appeal.

[6]. In **Dr. Arvind Barsaul etc. vs. State of Madhya Pradesh and another, (2009) CriLJ 331**, the Hon'ble Apex Court held that the proceedings even after conviction of the accused can be quashed on the basis of compromise. If the Court finds that continuation of criminal proceedings would result in abuse of process of law, then inherent jurisdiction of the Court can be resorted to in setting the controversy right.

[7]. In **Deva Ram vs. State of Rajasthan, 2014(3) RCR (Cri.) 854**, and another the Hon'ble Apex Court held that since offence under Section 420 IPC is compoundable with permission of Court and the accused were sentenced for compoundable offences. Appeal and revision were dismissed and thereafter parties entered into compromise during pendency of appeal before the Hon'ble Supreme Court. Keeping in view the nature of offence, parties were allowed compounding of

offences with the permission of Court and the accused was acquitted of the said charge.

[8]. Compoundable nature of offence under Section 320 IPC vis-a-vis the amendment Act No.25 of 2005 has been discussed in **Manoj & Anr. vs. State of Madhya Pradesh, 2008(4) RCR (Crl.) 552**, by the Hon'ble Apex Court. The Hon'ble Apex Court has observed in para No.13 as follows:-

“It requires to be noticed that Criminal Procedure Code (Amendment) Act, 2005 [Act No.25/2005] amended Section 320 of the Code and in the Table under sub-section (2) (a) the words “voluntarily causing hurt by dangerous weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 has been omitted. But the said amendment by Act No.25 of 2005 has not yet been brought into force. Therefore, the offence under Section 324 is still compoundable with the permission of the Court.”

[9]. In **Mathura Singh and others vs. State of U.P. 2009(2) RCR (Crl.) 859**, the compounding phenomenon was applied to offence under Section 324 IPC after conviction of the accused by the Hon'ble Apex Court in a compromise before it. **Manoj and anothers'** case (supra) was relied upon in this case.

[10]. Similarly in **Baghel Singh vs. State of Punjab, 2014(3) RCR (Crl.) 578,** this Court by relying upon earlier judgment of this Court allowed compounding of offence in respect of offence under Section 326 IPC at appellate stage, where the Court came to the conclusion that it will be starting point in maintaining peace between the parties.

[11]. Other High Courts have also taken similar view in the following precedents:

Prabhat Das and ors. vs. State of Tripura & Ors., 2013 CriLJ 1712 (Gauhati); Bineesh vs. State of Kerala, 2014(11) RCR (Crl.) 13 (Kerala); Hans Raj and another vs. State of Rajasthan and another, 2014(3) RajCriC 806 (Rajasthan).

[12]. The State on notice, however, objected to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that both the parties have settled their dispute of private nature, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of compromise.

[13]. Resultantly, FIR No.47 dated 11.04.2010 registered under Sections 452, 323, 506, 148, 149 IPC at Police Station Division No.5, Jalandhar, District Jalandhar, judgment of conviction and order of sentence dated 03.08.2015 passed by

Judicial Magistrate Ist Class, Jalandhar and all the subsequent proceedings arising therefrom are hereby quashed.

[14]. Petition stands disposed of.

February 28, 2018

(RAJ MOHAN SINGH)
JUDGE

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Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No