

273

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

CRM-M No.43432 of 2017

Date of Decision: 19.01.2018

SUNNY DHINGRA AND ORS

.....Petitioners

Vs

STATE OF PUNJAB AND ANR

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr. B.D. Sharma, Advocate
for the petitioners.

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

Mr. Lalit Sharma, Advocate
for respondent No.2.

RAJ MOHAN SINGH, J. (Oral)

[1]. Prayer in this petition is for quashing of FIR No.213 dated 31.10.2014 registered under Sections 323/452/427/382/506/354-B IPC at Police Station C-Division Amritsar and consequent criminal proceedings arising out of judgment of conviction and order of sentence dated 26.09.2017 passed by Judicial Magistrate Ist Class, Amritsar, on the basis of compromise.

[2]. The aforesaid FIR was registered on the statement of Amit Kumar/respondent No.2 with the allegations that the

petitioners caused injuries to him and his family members. 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 No.446/2017 is statedly pending before the Court of Additional Sessions Judge, Amritsar.

[3]. This Court vide order dated 17.11.2017 directed the parties to appear before the trial Court/Area Judicial Magistrate 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, Amritsar on 19.12.2017 and got their statements recorded. The Magistrate has also found the compromise in question to be genuine, voluntary and without any coercion or undue influence. The accused were never declared to be as a proclaimed persons 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 of 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 petitioners were convicted and sentenced to undergo rigorous imprisonment for a period of one year each and to pay fine of Rs.500/- under Section 452 read with Section 34 IPC and rigorous imprisonment for a period of 6 months each under Sections 506, 323 read with Section 34 IPC along with default mechanism. All the sentences were ordered to run

concurrently.

[13]. Since both the parties have settled their dispute of private nature, therefore, this Court is of the opinion that the ends of justice would be met, if the petitioners are sentenced to undergo the period they have already undergone. Ordered accordingly.

[14]. Petition stands disposed of.

January 19, 2018

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No