

CRM-M-4914 of 2018 (O&M)

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

CRM-M-4914 of 2018 (O&M)
Date of Decision: 25.07.2018

Dara Singh

....Petitioner

Versus

State of Punjab and another

....Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: - Mr. Ashutosh Hoshiarpuri, Advocate, for the petitioner.
Mr. Harpreet Multani, DAG, Punjab.
Mr. S.S. Bhullar, Advocate, for respondent No.2.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C. has been made for quashing FIR No.102 dated 26.11.2008 registered under Sections 420 and 120-B IPC at Police Station Harike, District Tarn Taran, on the basis of compromise dated 30.01.2018 (Annexure P-3).

Pursuant to order dated 14.02.2018 of this Court, the parties appeared before the Sessions Court on 28.02.2018 to get their statements recorded. Learned Additional District and Sessions Judge, Tarn Taran, has submitted his report vide letter bearing No.38 dated 17.03.2018 duly forwarded by learned District and Sessions Judge, Tarn Taran vide Endst. No.1261-R dated 19.03.2018.

According to the report, Additional District and Sessions Judge, Tarn Taran, is satisfied that compromise arrived at between the parties is without any threat or coercion.

The petitioner was held guilty by learned Judicial Magistrate Ist

Class, Patti vide judgment of conviction dated 11.01.2017. Vide order of

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sentence of even date, he was sentenced to undergo rigorous imprisonment for two years and pay fine of ₹2,000/- under Section 420 IPC. In default of payment of fine to further undergo rigorous imprisonment for two months.

Being aggrieved, the petitioner preferred appeal against the aforesaid judgment of conviction and order of sentence, which is still pending adjudication. During the pendency of the said appeal, the parties have amicably compromised the matter.

The question is as to whether compounding of offence can be permitted even in non compoundable offence at the appellate stage after conviction of an accused on the basis of compromise. The relevant portion of the judgment by a Division Bench of this Court in Sube Singh and another vs. State of Haryana and another, 2013(4) R.C.R. (Criminal) 102 is reproduced as under:-

“(11) The extent and sweep of inherent power exercisable by the High Court under Section 482 CrPC for quashing the criminal proceedings on the basis of compromise between the offender and the victim of crime in a case which is not compoundable under Section 320 CrPC, has since been considered in extenso and answered by the Hon’ble Supreme Court in Gian Singh vs. State of Punjab & Anr., (2012) 4 RCR (Crl.) 543, laying down that the compounding of offence and quashing of criminal proceedings are two separate things and not interchangeable and that the two powers are distinct and different although ultimate consequence may be the same. It has been authoritatively ruled that where the offender and victim have settled their dispute, the High Court in exercise of its inherent power under Section 482 CrPC, is competent to quash criminal proceedings even relating to the non-compoundable offences though such a power need to be invoked sparingly and not when the offences are heinous, serious, of mental depravity or like murder, rape, dacoity etc. The pronouncement thus says:-

“53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences, power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

*(12) The decision in Gian Singh’s case (supra) also approves the view taken by a five-Judge Bench of this Court in **Kulwinder Singh & Ors. vs. State of Punjab & Anr.**, 2007(3) RCR (Crl.) 1052.*

(13) It is indeed now unarguable to say that the power exercisable by the High Court under Section 482 CrPC for the quashing of criminal prosecution is limited or affected by the provision of Section 320 CrPC.

(15) The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 CrPC and pass an appropriate order so as to secure the ends of justice.

(17) The magnitude of inherent jurisdiction exercisable by the High Court under Section 482 CrPC with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the

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bar under Section 320 CrPC but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.”

Considering the aforesaid dictum in **Sube Singh's** case (supra) and the fact that there is no statutory embargo against invoking powers under Section 482 Cr.P.C. after conviction of accused by the trial Court and during pendency of the appeal against such conviction and further that the compromise will bring peace and harmony in relations between the parties, FIR No.102 dated 26.11.2008 registered under Sections 420 and 120-B IPC at Police Station Harike, District Tarn Taran, is hereby quashed, subject to payment of costs of ₹10,000/-, out of which ₹6,000/- shall be deposited with the Punjab State Legal Services Authority and ₹4,000/- with the Bar Council of Punjab and Haryana.

Petition is disposed of accordingly.

List on 20.8.2018 for production of receipt with regard to deposit of aforesaid costs.

July 25, 2018
R.S.

(RAMENDRA JAIN)
JUDGE

Whether speaking/reasoned Yes/No

Whether Reportable Yes/No