

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CRR No. 843 of 2012 (O&M)
Date of Decision :21.12.2018

Pawan Kumar and another

... Petitioners

Versus

State of Punjab and another

... Respondents

CORAM : HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present : Mr. P.S.Brar, Advocate for the petitioners.

Mr. H.S.Grewal, Addl. A.G. Punjab.

HARNARESH SINGH GILL, J.

Challenge in this revision petition is to judgment dated 15.02.2012 passed Sessions Judge, Faridkot whereby appeal filed by the petitioner against judgment and order dated 15.10.2010 passed by the Chief Judicial Magistrate, Faridkot has been dismissed. Vide judgment dated 15.10.2010 passed by the Chief Judicial Magistrate, Faridkot, petitioners have been convicted under Sections 120-B, 418, 467, 471 of IPC in FIR No.219 dated 31.12.2005 registered at Police Station City Kotkapura and sentenced as under:-

<i>U/s</i>	<i>Sentence</i>
120-B IPC	To undergo R.I. for period of six months and to pay fine of Rs.500/- and in default of payment of fine to further undergo RI for one month each

<i>U/s</i>	<i>Sentence</i>
418 IPC	To undergo R.I. for period of nine months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo RI for one month each
467 IPC	To undergo R.I. for a period of one year and six months and to pay fine of Rs.1000/- and in default of payment of fine to further undergo RI for three month each
471 IPC	to undergo R.I. for a period of nine months and to pay a fine of Rs.500/- and in default of payment of fine to further undergo RI for one month each

At the very outset of arguments, learned counsel for the petitioners has stated at bar that petitioners have already entered into compromise with the complainant which fact itself is evident from order dated 13.01.2017. Order dated 13.01.2017 passed by this court is reproduced as under:-

"Mr. Ravi Sharma, Advocate has put in appearance on behalf of the Branch Manager, Central Bank of India, Faridkot. He has handed over a copy of the certificate issued by the Branch Manager wherein it has been stated that the matter has been compromised with M/s Niraj Mittal Trading Company, which is taken on record.

List on 09.02.2017."

The factum of compromise between the parties is not disputed by learned counsel for the respondent-State. The Hon'ble Supreme Court in [Gian Singh vs. State of Punjab & Anr.](#), (2012) 4 RCR (Cr.) 543, laid 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 Cr.P.C.](#), 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:-

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoeer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under [IPC](#) or offences of moral turpitude under special statutes, like [Prevention of Corruption Act](#) or the offences committed by public servants while working in that capacity, the settlement between offender and victim can

have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed."

This court is of the considered view that continuation of criminal proceedings will be an exercise in futility and justice as the dispute between the parties has been put to an end and peace is restored. This court is satisfied that on the face of aforesaid settlement between the parties, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated.

Keeping in view the totality of the facts and circumstances and

the fact that the compromise has been effected between petitioners, this revision petition stands allowed and as such, impugned orders/judgments of courts below are set aside and the accused-petitioners are acquitted of the charge framed against them.

21.12.2018
pooja saini

(HARNARESH SINGH GILL)
JUDGE

Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No