

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

CRR-2618-2016

Date of Decision : October 17, 2019

Balwan Singh and others

....Petitioners

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE ARVIND SINGH SANGWAN

Present: Mr. N.S. Shekhawat, Advocate for the petitioners.

Mr. Deepak Grewal, DAG, Haryana.

Mr. Deepak Sethi, Advocate for the complainant.

ARVIND SINGH SANGWAN, J. Oral)

Prayer in this revision petition is for setting aside the judgment of conviction dated 1.4.2013 passed by the trial Court vide which the petitioners were held guilty for the offences punishable under Sections 324, 326 and 452 read with Section 34 IPC as well as the order of sentence dated 2.4.2013 vide which the petitioners were initially sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/- each as well as the judgment dated 10.5.2016 passed by the lower appellate Court vide which the lower appellate Court upheld the conviction of the petitioners under Sections 326, 324 and 452 read with Section 34 IPC. However, the sentence was reduced to the period already undergone by the appellants keeping in view the compromise entered between the parties.

The appellate Court recorded a finding that since the petitioners/accused were in custody from 10.6.2003 to 18.9.2003, therefore, the sentence was reduced to the period already undergone by them.

During the pendency of the present revision petition, on a representation made by the parties that they are closely related to each other as the father of the petitioners/accused and the father of the injured/complainant are real brothers and they have effected a valid and legal compromise, both the parties were directed to appear before the Chief Judicial Magistrate, Gurugram for recording their respective statements in support of the compromise.

The Chief Judicial Magistrate, Gurugram vide his report dated 5.9.2019 has formed an opinion based on the statements of the accused persons i.e. petitioners, namely, Balwan Singh, Pardeep Kumar and Karan Singh, sons of Nahar Singh and on the basis of the statement of the complainant/injured-Jagbir Singh son of Azad Singh that a valid and legal compromise is effected between the parties, which is voluntarily without any pressure or coercion and both the parties have also recorded their statements on their own volition. The report of the Chief Judicial Magistrate is supported by the original statements of the complainant as well as the accused persons. Both the parties were duly identified by the

counsels representing them in the trial Court and the compromise and affidavit of the complainant are attached with the report as Ex.C1 and Ex.C2, respectively.

Counsel for the petitioners has submitted that the FIR pertains to the year 2003 and except this incident, the petitioners are not involved in any other case and subsequent to this incident, they have not repeated any such offence, after they were released on bail by the trial Court as well as by the learned lower Appellate Court, they have not misused the concession. Counsel for the petitioners has also argued that despite the lapse of 16 years, no untoward incident has taken place between the parties. He has further stated that the parties are closely related, residing in the same vicinity in the village and are maintaining peace and harmony in their brotherhood.

Counsel for the petitioners has further argued that petitioner No.1-Balwan Singh, is a vehicle mechanic in the Central Ordinance Depot, Delhi Cantt., petitioner No.2-Pardeep Kumar is a retired Hawaldar from Indian Army and petitioner No.3 is a teacher in Municipal Corporation, Delhi. Counsel for the petitioners also submit that though petitioner No.2-Pardeep Kumar has retired from the Indian Army yet on account of his conviction, the pensionary benefits have not been granted to him. Counsel for the petitioners has also referred to Section 320(8) of the Code of Criminal

Procedure which provides that the composition of an offence under this Section shall have the effect of acquittal of the accused once the offence has been compounded. Counsel for the petitioner has further argued that in view of the compromise between the parties and also in view of the good conduct of the petitioners, the offences be allowed to be compounded as the complainant has left with no grievances against the petitioners and both the parties, being in close relations are living in peace and harmony.

Counsel for complainant-Jagbir Singh has not disputed the factual position as stated by the counsel for the petitioners.

The learned State counsel has also not disputed the factual position that the compromise has been effected between the parties.

In view of the same, the present revision petition is accepted and the judgments and order passed by the Courts below are set aside. The offences, on the basis of the compromise, are compounded and as a consequence thereof, the petitioners are acquitted of the charges framed against them.

The present petition is, accordingly, disposed of.

October 17, 2019
satish

(ARVIND SINGH SANGWAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No