

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

CRR-3233-2018(O&M)

Date of Order:04.10.2019

Chamkaur Singh and another

..Petitioners

Versus

State of Punjab and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. H.S.Batth, Advocate, for the petitioners.
Mr. SPS Tinna, Addl. A.G.,Punjab
Mr. Vikas Gupta, Advocate, for respondent nos.2 and 3.

ANIL KSHETARPAL, J.

By filing this revision, correctness of judgment of conviction under Section 326 IPC and order of sentence, to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.2,000/- passed by learned Chief Judicial Magistrate, Barnala, affirmed in the appeal, has been assailed.

On 21.02.2019, learned counsel for the petitioners made a statement that a compromise has taken place between the parties and he wants to implead the complainant as respondents. Notice of motion was issued.

Vide order dated 12.03.2019, passed in CRM-7625-2019, complainant Gurtej Singh and victim Balour Singh were impleaded as respondents no.2 and 3 and notice was issued.

Petitioners-convicts moved an application i.e. CRM-34303-2018 under Section 397 Cr.P.C. for suspension of their sentence of imprisonment, during the pendency of instant revision on the basis of compromise/settlement. The Court vide order dated 15.03.2019 suspended

their sentence and adjourned the case to 13.09.2019 for consideration of the application for compounding of offence.

On 13.09.2019, learned counsel for the petitioners as well as first informant-injured admitted that the parties have entered into a settlement. Compromise/settlement, Annexure P-4 is already part of the record.

On 23.09.2019, the petitioners-accused and the respondent nos.2 and 3 were present, duly identified by their respective counsels. A joint affidavit of petitioner nos.1 and 2 and separate affidavits of respondents no.2 and 3 have been filed, which were taken on record and marked as 'A', 'B' and 'C'.

Counsel for the petitioners and counsel for respondent nos.2 and 3 prayed that in view of the aforesaid facts, the orders under challenge and all subsequent proceedings emanating therefrom be quashed.

Counsel for the State of Punjab stated that in view of the settlement between the parties, the State would not stand in the way of the settlement and would not oppose the setting aside/quashing of the orders and all subsequent proceedings emanating therefrom.

I have heard learned counsel for the parties, perused the affidavits filed by the parties. I am of the considered opinion that the petitioners-accused and the respondent nos.2 and 3 have resolved their differences by a bonafide compromise, without any coercion or undue influence. Both the parties acknowledges the settlement/compromise.

For the aforesaid view, this Court finds support from

Kulwinder Singh and others Vs. State of Punjab and another, 2007(3)

RCR (Criminal) 1052 and Gian Singh Vs. State of Punjab and others

(2012) 10 SCC 303,

In the end learned counsel for the petitioners submitted that the first informant-injured Balour Singh and the petitioners-convicts are resident of the same village. The petitioners were taken into custody on 30.08.2018 and their sentence was suspended vide order dated 15.03.2019. He further submitted that a lenient view be taken because the occurrence took place on 22.05.2006.

This court on consideration of the matter finds that there is some substance in the argument of learned counsel for the petitioners. Petitioners do not have any criminal background. Both are first time offenders. No overt act after the occurrence in question is attributed to the petitioners. No doubt, the sentence undergone by them is not even one year, however, keeping in view the fact that the petitioners were released on suspension of sentence on 15.03.2019 and more than 6½ months have elapsed even thereafter, therefore the sentence awarded to the petitioners is reduced to the period already undergone. This order has been passed in the peculiar facts and circumstances of the present case and shall not be treated as precedent.

Resultantly, with the above-said observations made, the instant petition stands allowed to that extent.

04th October, 2019
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No