

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-30098-2019

Date of Decision: 29.10.2019

Gurmail Singh

.....Petitioner

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA.

Present: Mr. Rajinder Singla, Advocate,
for the petitioner.

Ms. Ambika Bedi, AAG, Punjab.

Mr. Munish Behl, Advocate,
for respondent No.2.

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of judgment of conviction and order of sentence dated 07.05.2018 passed by learned Judicial Magistrate 1st Class, Budhlada in FIR No. 89 dated 19.09.2015 under sections 452, 354, 323 of IPC registered at Police Station Boha, District Mansa and all consequential proceedings arising therefrom on the basis of compromise and affidavit dated 06.06.2019 (Annexures P-4 and P-5).

Vide judgment dated 07.05.2018, the learned Judicial Magistrate 1st Class Budhlada held the petitioner guilty of offence punishable under sections 452, 323 and 354 IPC and vide separate order of

even date sentenced him as under:-

<u><i>Offence u/s</i></u>	<u><i>Sentence awarded</i></u>
452 IPC	<i>To undergo rigorous imprisonment for a period of three years and fine of Rs.1000/-. In default six months</i>
354 IPC	<i>To undergo rigorous imprisonment for a period of one year and fine of Rs.500/- . In default three months</i>
323 IPC	<i>To undergo rigorous imprisonment for a period of six months</i>

Learned counsel for the petitioner states that during pendency of appeal before learned Additional District and Sessions Judge, Mansa, the matter has been compromised between the parties vide compromise/affidavit of complainant dated 06.06.2019 (Annexures P-4 and P-5).

This Court vide order dated 17.07.2019 had directed the parties to appear before the Appellate Court to get their statements recorded and the learned trial court was directed to send its report qua the genuineness of the compromise. However, statement of the parties could not be recorded as they failed to appear before the learned Appellate Court. Again vide order dated 09.09.2019, one more opportunity was granted to the parties to get their statement recorded, in terms of the order dated 17.07.2019 passed by this Court and learned Appellate Court was directed to forward the report to this Court.

Pursuant to the aforesaid order, parties have appeared before learned Additional Sessions Judge, Mansa and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 21.09.2019 to the effect that the compromise effected between the parties seems to be genuine, voluntary and without any coercion or undue influence and for the purpose of bringing peace, harmony

and curtailing the litigation.

Respondent No.2-complainant, namely, Manjinder Kaur, has made a statement with regard to compromise before learned Magistrate on 12.09.2019. The same is reproduced as under:-

“I am complainant in this case. I have got registered bearing FIR No.89 dated 19.09.2015, under Section 452, 323 of IPC, PS Boha against Gurmel Singh son of Chet Singh, resident of village Akka Wali, Tehsil Budhlada, District Mansa. Now, matter in dispute has been compromised between myself and accused Gurmel Singh son of Chet Singh. The compromise is in the benefit of both the parties and it will bring peace and harmony among the parties and in the area. Present statement suffered by me in the Court is without any inducement, threat and pressure and is being made with my own consent, free will and without any coercion. I have entered into the compromise voluntarily out of my free will. I have no objection, in case accused Gurmel Singh is acquitted and the impugned FIR is quashed. In view of the compromise above said, I request that the present FIR may kindly be quashed by Hon'ble High Court. Copy of my adhar card is Ex. C1.”

Learned counsel for the complainant has fairly admitted the factum of compromise entered between the parties. He states that due to some misunderstandings there was dispute between the parties, however, now both the parties have decided to reside peacefully and the complainant has no objection if the case is cancelled against the petitioner.

Learned State counsel has, however, contended that the petitioner-accused has rightly been convicted and sentenced by the trial Court. She states that the offence punishable under sections 354 and 452 are non-compoundable and therefore, even if the matter has been compromised between the parties, the petitioner cannot be acquitted of the charges framed

against him.

Faced with this situation, learned counsel for the petitioner has not challenged the conviction and restrict his prayer qua the quantum of sentence only. He prays that sentence awarded to the petitioner be reduced to the period already undergone by him.

Heard learned counsel for the parties.

Hon'ble Apex Court in *Nanda Gopalan versus State of Kerala 2015(2) RCR (Criminal) 861*, while taking into account the compromise between the parties has held that though compounding of offence in a non-compoundable offence cannot be ordered, but reduction of sentence can be ordered. In the present case, the offence under sections 354 and 452, IPC are non-compoundable and as such, this Court finds that the request of the petitioner seeking permission to compound the offence cannot be accepted.

In view of the above, considering the fact that the matter has been compromised between the parties and it be a quashing after conviction of the petitioner-accused by the trial Court, the sentence is reduced to the period already undergone by him.

Consequently the appeal preferred by the petitioner against the aforesaid judgment and order is rendered infructuous and shall be declared so by the first Appellate Court.

The present petition is disposed of accordingly.

October 29, 2019
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No