

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

216/1

CRM-M-32293-2019.

Date of Decision: 07.10.2020

Lakhwinder Singh @ Deepa

....Petitioner.

Versus

State of Punjab and another

....Respondents.

CORAM: HON'BLE MR. JUSTICE LALIT BATRA

Present: Mr. Kamal Grover, Advocate for the petitioner.

Mr.V.G. Jauhar, Senior Deputy Advocate General, Punjab.

None for the complainant.

Lalit Batra , J . (Oral)

Case has been taken up for hearing through Video Conference.

Present petition under Section 482 Cr.P.C. is for quashing of FIR No.21 dated 20.03.2015 under Sections 323, 324 and 341 IPC read with Section 34 IPC, registered at Police Station Talwara, District Hoshiarpur, on the basis of compromise dated 20.03.2018 (Annexure P/2) as well as judgment of conviction and order on quantum of sentence both dated 07.03.2017 passed by Judicial Magistrate First Class, Mukerian, whereby petitioner has been convicted for the commission of offence punishable under Sections 323, 324 and 341 IPC read with Section 34 IPC and sentenced *inter alia* to undergo rigorous imprisonment for two years and fine.

During the course of hearing on 30.09.2019, this Court directed the Chief Judicial Magistrate to record statements of all the concerned parties, with regard to genuineness and validity or otherwise of compromise dated 20.03.2018.

In compliance thereof, report of Chief Judicial Magistrate, Hoshiarpur, has been received through District & Sessions Judge, Hoshiarpur, alongwith statements of parties, in which, it has been mentioned that the compromise is genuine, voluntary and without any coercion or undue influence.

Learned counsel for the petitioner relied upon the judgment passed by a Co-ordinate Bench of this Court in case “**Joginder Ram and others v. State of Punjab and another, 2009(1) RCR (Criminal) 495**” wherein the appellant was acquitted under Section 323 IPC on the basis of compromise, after conviction by the lower Court.

The Hon'ble Full Bench of this Court in case “**Kulwinder Singh v. State of Punjab and another, 2007(3) RCR (Criminal) 1052**” and Hon'ble Division Bench of this Court in case “**Sube Singh and another v. State of Haryana and another, 2013(4) RCR (Criminal) 102**” observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court and in case of involving non-compoundable offence.

An identical question came to be decided by the Hon'ble Supreme Court in case **Gian Singh Versus State of Punjab and another, 2012(4) RCR (Criminal) 543**. Having interpreted the relevant provisions and considering a line of the judgment on the pointed points, it was ruled (para 57) as under:-

“57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz; (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and pre-dominantly civil flavour stand on different footing for the purposes of quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matr committed by public servants while working in that capacity etc., cannot provide imony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and

compromise between the victim and wrongdoer and whether to secure the ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding.”

The same view was again reiterated by Hon'ble Supreme Court in case ***“Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.***

Learned counsel for the petitioner contended that after passing of judgment of conviction and order on quantum of sentence both dated 07.03.2017, the parties have mutually settled their dispute and the matter in controversy revolves around private litigation concerning the parties only and not the society at large. Moreso, now the parties have decided to keep harmony and live peacefully in future.

Having regard to the contentions of learned counsel for the parties and the fact that both the parties to the litigation have entered into compromise and on that basis, present petition under Section 482 Cr.P.C. has been filed for quashing the present FIR and consequent judgment of conviction and order on quantum of sentence both dated 07.03.2017, as detailed above. The compromise has been arrived at with the intervention of the respectables and family members and the parties have decided to keep harmony between them and to live peacefully in future. Hence, it would be in the interest of justice that parties are allowed to compromise the matter. Moreover, parties are *ad idem* that in view of the settlement of disputes between the parties, present petition deserves to be accepted.

In view of above, instant petition is allowed. Consequently, impugned FIR No.21 dated 20.03.2015 under Sections 323, 324 and 341 IPC read with Section 34 IPC, registered at Police Station Talwara, District

Hoshiarpur and all other consequential proceedings arising therefrom are hereby quashed, on the basis of compromise.

Resultantly, impugned judgment of conviction and order on quantum of sentence both dated 07.03.2017, passed by Judicial Magistrate First Class, Mukerian (Annexure P/3) are set aside and petitioner is acquitted of charges levelled against him. As a necessary corollary, appeal preferred by the petitioner against aforesaid judgment of conviction and order on quantum of sentence both dated 07.03.2017 would be rendered infructuous and shall be so declared by the First Appellate Court.

October 07, 2020
neenu/jitender

(LALIT BATRA)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No