

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-M-4616-2020

Date of decision: 05.03.2020

Abhinandan Singh and others

..... Petitioners

Versus

State of Haryana and another

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

PRESENT: Mr. Arpandeep Narula, Advocate for the petitioner.

Mr. Surinder Paul, DAG, Haryana.

Mr. Lavish Arora, Advocate for respondent No. 2.

RAMENDRA JAIN, J. (ORAL)

Prayer in the instant petition under Section 482 Cr.P.C., has been made for quashing FIR No. 51 dated 12.05.2013 (Annexure P-1) registered under Sections 307, 324, 452, 506 read with Section 34 IPC at Police Station Raipur Rani, District Panchkula and all subsequent proceedings arising therefrom, on the basis of compromise dated 24.01.2020 (Annexure P-3) effected between the parties, including judgment of conviction and order of sentence dated 17.02.2018 of the trial Court (Annexure P-2), whereby petitioners were convicted under Sections 324/34, 452/120-B and 506 IPC and sentence as under:

<i>Section</i>	<i>Sentence</i>
Section 324/34 IPC	To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1000/- each.
Section 452 read with Section 120-B IPC	To undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.700/- each.
Section 506 IPC	To undergo rigorous imprisonment for a period of one years and to pay a fine of Rs.500/- each.

In default of payment of fine, they were ordered to undergo rigorous imprisonment for a period of three months each. All the sentences were ordered to run concurrently. It is also pertinent to mention here that petitioners were not convicted under Section 307 IPC as the injuries on the person of respondent No. 2-complainant were not found to be “dangerous to life”.

Being aggrieved, the petitioners filed appeal against the judgment Annexure P-2. During the pendency of said appeal, the parties compromised the matter.

The question is as to whether compounding of offence can be permitted even in non-compoundable offence, at the appellate stage after conviction of an accused, on the basis of compromise.

This point is being dealt with in **“Sube Singh and another Vs. State of Haryana and another”**, 2013(4) R.C.R. (Criminal) 102. Relevant portion of this judgment is reproduced hereunder:-

“(11) The extent and sweep of inherent power exercisable by the High Court under Section 482 CrPC for quashing the criminal proceedings on the basis of compromise between the offender and the victim of crime in a case which is not compoundable under

Section 320 CrPC, has since been considered in *extenso* and answered by the Hon'ble Supreme Court in **Gian Singh Vs. State of Punjab & Anr., (2012) 4 RCR (Crl.) 543**, laying 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 CrPC, 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.

53. Quashing of offence or criminal proceedings on the ground of settlement between an offender and victim is not the same thing as compounding of offence. They are different and not interchangeable. Strictly speaking, the power of compounding of offences given to a court under Section 320 is materially different from the quashing of criminal proceedings by the High Court in exercise of its inherent jurisdiction. In compounding of offences,

power of a criminal court is circumscribed by the provisions contained in Section 320 and the court is guided solely and squarely thereby while, on the other hand, the formation of opinion by the High Court for quashing a criminal offence or criminal proceeding or criminal complaint is guided by the material on record as to whether the ends of justice would justify such exercise of power although the ultimate consequence may be acquittal or dismissal of indictment.

(12) The decision in Gian Singh's case (supra) also approves the view taken by a five-Judge Bench of this Court in Kulwinder Singh & Ors. Vs. State of Punjab & Anr., 2007(3) RCR (Crl.) 1052.

(13) It is indeed now unarguable to say that the power exercisable by the High Court under Section 482 CrPC for the quashing of criminal prosecution is limited or affected by the provision of Section 320 CrPC.

(15) The refusal to invoke power under Section 320 CrPC, however, does not debar the High Court from resorting to its inherent power under Section 482 CrPC and pass an appropriate order so as to secure the ends of justice.

(17) The magnitude of inherent jurisdiction

exercisable by the High Court under Section 482 Cr.PC with a view to prevent the abuse of law or to secure the ends of justice, however, is wide enough to include its power to quash the proceedings in relation to not only the non-compoundable offences notwithstanding the bar under Section 320 CrPC but such a power, in our considered view, is exercisable at any stage save that there is no express bar and invoking of such power is fully justified on facts and circumstances of the case.”

Pursuant to order dated 03.02.2020 of this Court, the parties appeared before the Judicial Magistrate Ist Class, Panchkula on 18.02.2020 to get their statements recorded. Learned Judicial Magistrate Ist Class, Panchkula, has submitted her report vide letter No. 99 dated 20.02.2020 duly forwarded by learned District and Sessions Judge, Panchkula, vide letter No. 748-J, dated 25.02.2020. According to the report, Id. Judicial Magistrate Ist Class, Panchkula, is satisfied that compromise effected between the parties is genuine and voluntarily. No accused has been declared as proclaimed offender.

In compliance of order dated 03.02.2020, original receipts regarding deposit of costs of ₹1,00,000/- have also been produced in Court today. The same are taken on record. Be tagged at appropriate place.

Considering the aforesaid dictum in **Sube Singh's case**

(supra) and the fact that there is no statutory embargo against invoking powers under Section 482 Cr.P.C., after conviction of accused by the trial Court and during pendency of the appeal against such conviction, this Court is of the considered opinion that there would be an exercise in futility, in case, appeal preferred by the petitioners against the impugned judgment of the trial Court Annexure P-2, pending before the Ist Appellate Court, is permitted to continue. In such circumstances, the equity demands that in view of compromise arrived at between the complainant and the petitioners in congenial atmosphere, conviction of the petitioners recorded by the trial Court be maintained. However, their order of sentence recorded by the trial court under Sections 324/34, 452/120-B and 506 IPC is modified to the period, if any, already undergone by them.

Ordered accordingly.

Disposed of.

March 05, 2020

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**(RAMENDRA JAIN)
JUDGE**

Whether speaking/reasoned Yes/No

Whether reportable Yes/No