

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

Shingara Singh and othersPetitioners
Vs
State of Punjab and othersRespondents

Present: Mr. Kulwant Singh, Advocate
for the petitioners.

Mr. J.S. Ghumman, DAG, Punjab.

Mr. Akash Jindal, Advocate
for respondents No.2 to 8.

RAJ MOHAN SINGH, J. (Oral)

[1]. Prayer in this petition is for quashing of FIR No.142 dated 03.08.2015 registered under Sections 323, 325, 427 and 34 IPC at Police Station Sadar Ludhiana along with all subsequent proceedings including judgment of conviction and order of sentence dated 07.09.2017 passed by Judicial Magistrate First Class, Ludhiana on the basis of compromise.

[2]. Against the judgment of conviction, the appeal is statedly pending before the Lower Appellate Court. During pendency of the appeal, parties have amicably resolved their differences being members of the same family.

[3]. Vide order dated 17.09.2018, both the parties were directed to appear before the Appellate Court for recording their statements in respect of genuineness of the compromise in question.

[4]. In compliance of the aforesaid order, Shingara Singh, Gurjinder Singh, Parbhinder Singh, Surjit Kaur, Talveer Kaur, Jasvir Kaur and Paramjit Kaur appeared before the Additional Sessions Judge, Ludhiana on 26.10.2018 and got their statement recorded in the context of genuineness of the compromise in question. Earlier Tarsem Singh was the complainant. After his demise, legal representatives were brought on record. Accused petitioners are also family members being descendants of Tara Singh. The factum of compromise has been pleaded by all the members of the accused and complainant party. Complainant/respondent No.3 Shingara Singh and Tarsem Singh appeared before Judicial Magistrate First Class on 27.05.2019. Their statements were also recorded in the context of compromise in question. Tarsem Singh is the injured. He had also submitted by way of his statement dated 24.11.2017 in the context of compromise.

[5]. The Court after recording statements of all the necessary parties has endorsed the factum of compromise to be genuine. Against judgment of conviction and order of sentence

dated 07.09.2017, the appeal is pending, where statements of the parties have been recorded. Offences are private in nature.

[6]. In **Sube Singh and another Vs. State of Haryana and another, 2013(4) RCR (Criminal) 102**, this Court held that magnitude of inherent powers is wide enough to cover proceedings in appeal also so as to prevent abuse of law and to achieve ends of justice. The compromise in question would definitely facilitate both the parties to live in peace and to maintain harmony amongst themselves who are descendants of deceased Tara Singh. Offences in question are personal in nature and do not involve any heinous or serious offence of any mental depravity, nor it involves any offence covered under Prevention of Corruption Act. Therefore, when the parties have settled their differences, the continuation of criminal proceedings would put the accused to oppression and prejudice. In such a situation, the exercise of power to quash the proceedings would be in accordance with the provision of law to meet ends of justice and to prevent unnecessary vagaries of trial and prosecution.

[7]. In **2014(3) RCR (Crl.) 854, Deva Ram v. State of Rajasthan** and another the Hon'ble Apex Court held that since offence under Section 420 IPC is compoundable with permission of Court and the accused were sentenced for compoundable offences.

Appeal and revision were dismissed and thereafter parties entered into compromise during pendency of appeal before the Hon'ble Supreme Court. Keeping in view the nature of offence, parties were allowed compounding of offences with the permission of Court and the accused was acquitted of the said charge.

[8]. Compoundable nature of offence under Section 320 IPC vis-a-vis the amendment Act No.25 of 2005 has been discussed in **2008(4) RCR (Crl.) 552, Manoj & Anr. v. State of Madhya Pradesh** by the Hon'ble Apex Court. The Hon'ble Apex Court has observed in para No.13 as follows:-

“It requires to be noticed that Criminal Procedure Code (Amendment) Act, 2005 [Act No.25/2005] amended Section 320 of the Code and in the Table under sub-section (2) (a) the words “voluntarily causing hurt by dangerous weapons or means” in column 1 and the entries relating thereto in columns 2 and 3 has been omitted. But the said amendment by Act No.25 of 2005 has not yet been brought into force. Therefore, the offence under Section 324 is still compoundable with the permission of the Court.”

[9]. In **2009(2) RCR (Crl.) 859, Mathura Singh and others v. State of U.P.**, the compounding phenomenon was applied to offence under Section 324 IPC after conviction of the accused by the Hon'ble Apex Court in a compromise before it. **Manoj and anothers'** case (supra) was relied upon in this case.

[10]. Similarly in **2014(3) RCR (Crl.) 578, Baghel Singh v. State of Punjab**, this Court by relying upon earlier judgment of this Court allowed of compounding of offence in respect of offence under

Section 326 IPC at appellate stage, where the Court came to the conclusion that it will be starting point in maintaining peace between the parties.

[11]. Other High Courts have also taken similar view in the following precedents: **2013 CriLJ 1712 (Gauhati) Prabhat Das and ors. v. State of Tripura & Ors.; 2014(11) RCR (Crl.) 13 (Kerala), Bineesh v. State of Kerala; 2014(3) RajCriC 806 (Rajasthan), Hans Raj and another v. State of Rajasthan and another.**

[12]. The State on notice, however, objects to the aforesaid course, but in order to prevent unnecessary continuation of criminal proceedings on the ground that both the parties have settled their dispute of private nature, this Court is of the opinion that it would be in fitness of things to quash the proceedings on the basis of compromise.

[13]. Resultantly, FIR No.142 dated 03.08.2015 registered under Sections 323, 325, 427 and 34 IPC at Police Station Sadar Ludhiana along with all subsequent proceedings including judgment of conviction and order of sentence dated 07.09.2017 passed by Judicial Magistrate First Class, Ludhiana on the basis of compromise, are quashed.

06.03.2020

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No