

CRM-M-39786-2019

Date of Decision:28.09.2020

Harbhajan Kaur and othersPetitioners
Vs.
State of Punjab and anotherRespondents

CRM-M-25420-2019

Jaswinder Singh and othersPetitioners
Vs.
State of Punjab and anotherRespondents

CORAM : HON'BLE MR.JUSTICE AMOL RATTAN SINGH

Present:- Mr. Kuldeep Singh, Advocate,
for the petitioners in both the petitions.

Mr. A.P.S.Gill, DAG, Punjab.

Mr. Navraj Singh, Advocate
for respondent no.2.

AMOL RATTAN SINGH, J. (Oral)

All cases listed today have been taken up for hearing by way of video conferencing because of the situation existing due to the Covid-19 pandemic.

By CRM-M No.39786 of 2019, quashing of the criminal complaint bearing no.133/2008, dated 29.07.2008 (CIS No.Coml/5491/ 2013), is sought, as had been filed by respondent no.2 against the petitioners, before the JMIC, Hoshiarpur (Annexure P-1), alleging therein the commission of offences punishable under Sections 323/324/325/326 IPC, even though the petitioners stand convicted vide the judgment of the trial court dated 18.02.2019 (Annexure P-2). They also seek quashing of all other subsequent proceedings arising therefrom, on the basis of a compromise reached with the complainant on 28.02.2019 (Annexure P-3).

By CRM-M No. 25420 of 2019, quashing of FIR No.40, dated 02.06.2008, registered against the petitioners at Police Station Bullowal, District Hoshiarpur (copy Annexure P-1), and GDR No.21 dated 06.06.2008, registered for the alleged commission of offences punishable under Sections 323/324/148/149 of the IPC, is sought, also on the basis of a compromise arrived at between the parties.

The complainant in the FIR, is one of the accused in the Criminal Complaint No.133 of 2008. Thus, in effect they are cross-cases, as submitted by counsel on both sides.

Vide orders of this Court dated 29.01.2020 (passed in CRM-M-39786-2019) and 30.05.2019 (passed in CRM-M-25420-2019), the parties were directed to appear before the learned Judicial Magistrate/trial Court to get their statements recorded, in terms of the compromise reached.

Pursuant to the aforesaid orders, the report of the learned JMJC, Hoshiarpur, has been sent to this Court, stating to the effect that the parties to the dispute suffered statements before that court, to the effect that they have compromised the matter with each other (with 3 of the accused in the complaint case having died, i.e. Jarnail Singh, Deepa and Nihang).

As per the assessment of the learned Magistrate, the compromise arrived at between the parties is of their free will and without any kind of pressure or coercion.

It has also been stated by the learned Magistrate that as per the statement of ASI Yadvinder Singh, there is no other criminal case registered against the petitioners (in CRM-M-39786-2019) and that none of them were ever declared to be proclaimed offenders.

In view of the above and keeping in view the ratio of the law laid down by the hon'ble Supreme Court in “*Gian Singh Vs. State of Punjab and others*” (2012) 10 SCC 303 , in the opinion of this Court, it would be pointless to continue with criminal proceedings, the parties having fully compromised the matter of their own free will.

In the said case, it was held by the Supreme Court that though the power granted under Section 482 of the Cr.P.C. is a very wide power, however, it should be exercised with caution depending upon the circumstances of each case.

In the present case, with all parties having compromised the matter with each other in what are seen to be virtually cross cases, further looking at the nature of the offences in respect of which the compromise has been reached, even conviction of the petitioners in CRM-M-39786-2019 would not come in the way of this court exercising such jurisdiction, in my opinion

It is to be observed that even in *Gian Singhs'* case, the appellant before the Supreme Court had been convicted of an offence punishable under Section 420 of the IPC.

Obviously the nature of the offence punishable under that provision and those as are the subject matter of the present petitions are wholly different; however, in view of the fact that all parties concerned on both sides have reached an amicable compromise with each other, then for the sake of maintaining peace and harmony in the community, I would see no reason to not exercise that jurisdiction.

Consequently, both the petitions, i.e. CRM-M No.39786 of 2019 and CRM-M No.25420 of 2019, are allowed and Criminal Complaint bearing no.133/2008, dated 29.07.2008 (CIS No.Coml/5491/2013), filed by respondent

no.2, against the petitioners, before the JMIC, Hoshiarpur (Annexure P-1), for the commission of offences punishable under Sections 323/324/325/326 IPC and all other subsequent proceedings arising therefrom, are hereby quashed on the basis of the compromise reached between the parties.

FIR No.40, dated 02.06.2008, registered against the petitioners in CRM-M No.25420 of 2019, at Police Station Bullowal, District Hoshiarpur (Annexure P-1) and GDR No.21 dated 06.06.2008, registered for the alleged commission of offences punishable under Sections 323/324/148/149 of the IPC, along with all proceedings emanating therefrom, are hereby also quashed.

A photocopy of this order be placed on the file of the connected case file.

September 28, 2020

dharamvir/

**(AMOL RATTAN SINGH)
JUDGE**

Whether speaking/reasoned : YES/NO
Whether Reportable : YES/NO