

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.3915 of 2018

.....

Date of decision:23.01.2020

Ashok Kumar

.....Petitioner

v.

State of Haryana and another

.....Respondents

....

Coram: Hon'ble Mr. Justice Ashok Kumar Verma

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Present: Ms. Avneet Kaur Brar, Advocate for the petitioner.

Mr. Navdeep Singh, Assistant Advocate General, Haryana
for the respondent-State.

Mr. Mayank Goyal, Advocate for Mr. Nitin Meel, Advocate for
complainant-respondent No.2.

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Ashok Kumar Verma, J.

This criminal revision petition has been filed under Section 401 Cr.P.C. praying for setting aside the order of sentence passed by the learned Sessions Judge, Bhiwani and for running the three sentences concurrently passed vide three judgments dated 27.02.2018.

At the time of first hearing of the criminal revision, learned counsel for the petitioner requested that there are chances of compromise, hence the matter was adjourned. During the pendency of criminal revision, a compromise had been arrived at between the parties and they were directed to appear before the trial Court so as to get their statements recorded qua the factum of compromise. The petitioner was also given

liberty to adduce evidence as regards his financial status including the assertion that he is in the category of 'Below Poverty Line'. The trial Court submitted report dated 18.1.2019, however, there was no finding as regards the assertion of the petitioner to the effect that he falls in the category of 'Below Poverty Line' although he has referred to the said Card in his statement recorded before the JMIC, Bhiwani. The trial Court was directed to furnish its opinion as regards the authenticity of aforesaid BPL certificate. Now vide report dated 16.02.2019, the Judicial Magistrate Ist Class, Bhiwani has opined that the petitioner is a BPL ration card holder and document produced by him is authentic document because the same has been issued by the Additional Deputy Commissioner, Bhiwani, which has been duly verified by his report dated 15.02.2019.

The complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as 'the NI Act') was filed by complainant-Sunil Bansal (respondent herein) in the Court of Chief Judicial Magistrate, Bhiwani with the averments that the accused is distantly related to him. The complainant is running a Readymade Garments Shop at Bhiwani. In May 2015, he advanced a sum of ₹3,10,000/- to the accused on the interest at the rate of 18% per annum. Thereafter, the accounts were settled between the parties and a sum of ₹3,60,000/- was due from the accused. On 5.4.2016, accused issued four cheques bearing Nos.654296 to 654299 dated 5.4.2016 for a sum of ₹90,000/- each drawn on State Bank of India. Cheque No.654298 was presented for encashment which was returned unpaid with the remarks that the cheque amount exceeds the funds in the account of the

accused. He issued a notice to the accused asking him to make the payment. When the payment was not made, the complaint was filed in the Court of Chief Judicial Magistrate, Bhiwani, which was entrusted to the Court of Judicial Magistrate Ist Class, Bhiwani. The JMIC after following the due procedure, vide judgment dated 27.02.2018 convicted the accused under Section 138 of the NI Act and sentenced him to undergo simple imprisonment for nine months. He was also directed to pay ₹90,000/- as compensation to the complainant, in default thereof the accused was directed to further undergo additional simple imprisonment for six months. He filed appeal before learned Sessions Judge, Bhiwani, which was dismissed. Aggrieved from this judgment, the petitioner has filed criminal revision before this Court.

During the pendency of criminal revision the parties have compromised the matter and in view of the same, respondent No.2 does not want to proceed with the case.

Keeping in view the fact that the parties have entered into a compromise, they were directed to appear before learned trial Court for getting their statements recorded in support of the compromise. After doing the needful, learned Judicial Magistrate Ist Class, Bhiwani submitted two reports dated 18.1.2019 and 16.2.2019, submitting that the compromise arrived at between the parties is genuine and has been effected between the parties of their own free will and without pressure from any quarter. Authenticity of the BPL certificate of the petitioner has also been verified.

Learned Assistant Advocate General, Haryana and learned

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counsel for complainant-respondent No.2 admit the factum of compromise and submit that in case the parties have indeed settled their dispute, the State would have no objection to the quashing of the complaint and setting aside the judgments of the Courts below in view of the law laid down by the Hon'ble Supreme Court.

I have heard learned counsel for the parties as well as learned State counsel and have gone through the record.

The Hon'ble Supreme Court in **Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another, 2008 (2) R.C.R. (Cr.) 910**, has held that proceedings after conviction can be quashed.

This Court in **Sube Singh and another v. State of Haryana and another, 2013 (4) R.C.R. (Cr.) 102**, has held as under:-

“In the light of these peculiar facts and circumstances where not only the parties but their close relatives (including daughter and son-in-law of respondent No.2) have also supported the amicable settlement, we are of the considered view that the negation of the compromise would disharmonize the relationship and cause a permanent rift amongst the family members who are living together as a joint family. Non-acceptance of the compromise would also lead to denial of complete justice which is the very essence of our justice delivery system. Since there is no statutory embargo against invoking of power under Section 482 Criminal Procedure Code after conviction of an accused by the trial Court and during

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pendency of appeal against such conviction, it appears to be a fit case to invoke the inherent jurisdiction and strike down the proceedings subject to certain safeguards.”

This Court in **Satya Narain v. State of Haryana, 2009 (3) R.C.R. (Cr.) 97** and **Lal Chand v. The State of Haryana, 2009 (5) R.C.R. (Cr.) 838**, has held that High Court is vested with unparallel power to quash criminal proceedings at any stage to secure ends of justice. The parties have buried their hatchet, though at a belated stage, it was held, that if compromise is accepted and proceedings are quashed, it will go a long way, to create better relations between the parties. Therefore, it was observed that it is a fit case for quashing of FIR, conviction and sentence recorded by the trial Court.

In a decision, based on compromise, none of the parties is a loser. Rather, compromise not only brings peace and harmony between the parties to a dispute, but also restores tranquility in the society. After considering the nature of offences allegedly committed and the fact that both the parties have amicably settled their dispute, continuance of criminal prosecution would be an exercise in futility, as the chances of ultimate conviction are bleak.

Therefore, keeping in view the fact that the matter has been amicably settled between both the parties and the law laid down by the Hon'ble Supreme Court in **Gian Singh v. State of Punjab and another, 2012 (4) RCR (Cr.) 543**, and **Dr. Arvind Barsaul etc. v. State of Madhya Pradesh and another** (supra) and by this Court in **Sube Singh and another**

v. State of Haryana and another (supra), **Satya Narain v. State of Haryana** (supra), and **Lal Chand v. The State of Haryana** (supra), this petition is allowed. Criminal complaint No.RBT-144-2 of 2016 dated 28.04.2016/06.10.2016 and all subsequent proceedings arising out of the same are hereby quashed. The impugned judgments of conviction and order of sentence dated 27.02.2018 passed by learned Judicial Magistrate Ist Class, Bhiwani and the judgment dated 12.10.2018 passed by learned Sessions Judge, Bhiwani, vide which the petitioner has been convicted and sentenced for the offence under Section 138 of the NI Act are set aside on the basis of compromise qua the petitioner only.

January 23, 2020.

(Ashok Kumar Verma)
Judge

hsp

NOTE:	Whether speaking/reasoned:	Yes
	Whether reportable:	No