

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

CRR No. 3196 of 2019(O&M)

Date of decision: - 14.01.2020

Ranjit Singh and another

...Petitioners

Versus

State of Punjab

.....Respondent....

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. S.S. Rangi, Advocate for the petitioners.

Mr. Kirat Singh Sidhu, DAG, Punjab.

Mr. Jagpal S. Chahal, Advocate for the complainant.

HARNARESH SINGH GILL, J. (ORAL)

The petitioners have preferred this petition being aggrieved of the judgment dated 20.08.2016 passed by the learned Judicial Magistrate 1st Class, Ludhiana, vide which the petitioners were convicted under Sections 420, 467, 468, 471 and 120-B IPC and sentenced for one year and to pay a fine of Rs. 300/- and, in default thereof, to further undergo the imprisonment of one week and also against judgment dated 16.11.2019, vide which the appeal against judgment of conviction has been dismissed.

The aforesaid FIR had been registered on the basis of an application filed by Rani widow of Joginder Singh to Senior Superintendent of Police, Ludhiana against accused Ranjit Singh and Manjit Singh with the averment that Smt. Ram Piari widow of Krishan Singh after her death had left behind four sons, namely, Ranjit Singh, Manjit Singh, Karnail Singh and

Joginder Singh and two daughters, namely, Smt. Raj Kaur and Sukhwinder

Kaur. Out of her four sons Karnail Singh and Joginder Singh died during her lifetime. Both were married and deceased Karnail Singh son of Krishan Singh had left behind his widow Veera, Nirmal Singh (son), Paramjit Singh (son) and Harpreet Kaur (daughter) and deceased Joginder Singh had left behind his widow Rani, Lakhvir Singh (son), Gagandeep Singh (son) and Mona (daughter). Deceased Ram Piari has owned a house measuring 100 sq. yards bearing M. C. No. 4718, Gali No. 4, New Shimlapuri, Ludhiana and after her death the mutation of the said house was to be sanctioned as per the succession in favour of all the legal representatives as deceased Ram Piari did not execute any Will in favour of any person during her lifetime. However, both the accused in connivance with the revenue officials got sanctioned the mutation of the said house in their favour alone. In order to save their skin both the accused had prepared a false and fabricated un-registered Will.

Investigation in the present case was conducted and after completion of investigation, challan was presented.

In order to prove its case the prosecution had examined 7 witnesses.

Statements of the accused under Section 313 Cr.P.C. were recorded in which they denied the prosecution evidence and pleaded false implication.

The trial Court recorded a finding of guilt on the part of the accused holding that by getting the mutation sanctioned in their favour, they had committed cheating with the other legal heirs of deceased Ram Piari, including the complainant. Thus, the petitioners were convicted of the

sentenced as under:-

<i>Name of convict</i>	<i>Under Section</i>	<i>R.I.</i>	<i>Fine</i>	<i>In default</i>
<i>Ranjit Singh</i>	<i>420 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>467 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>468 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>471 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>120-B IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
<i>Manjit Singh</i>	<i>420 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>467 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>468 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>471 IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>
-	<i>120-B IPC</i>	<i>1 year</i>	<i>Rs. 300/-</i>	<i>One week</i>

The appeal filed by the petitioners was dismissed by the learned Additional Sessions Judge, Ludhiana on 16.11.2019.

Still aggrieved, the petitioners have filed the present revision petition.

During the pendency of the present revision petition, it has been brought to my notice, that the parties have entered into a compromise and thus, have amicably settled the disputes/differences between them. Compromise has been placed on record as Annexure P.1

Learned counsel appearing for the respondent-complainant does not dispute the factum of compromise and submits that the respondent-complainant does not have any objection in case the present revision is allowed; the offences are allowed to be compounded and as a consequence, the petitioners are acquitted of the charges framed against them.

I have heard the learned counsel for the parties.

In *Sube Singh and another versus State of Haryana, 2013 (4)*

RCR (Criminal) 102, this Court has held as under:-

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 noncompoundable 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. The pronouncement thus says:-*

“52. It needs no emphasis that exercise of inherent power by the High Court would entirely depend on the facts and circumstances of each case. It is neither permissible nor proper for the court to provide a straitjacket formula regulating the exercise of inherent powers under Section 482. No precise and inflexible guidelines can also be provided.

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.

54. Where High Court quashes a criminal proceeding having regard to the fact that dispute between the offender and victim has been settled although offences are not compoundable, it does so as in its opinion, continuation of criminal proceedings will be an exercise in futility and justice in the case demands that the dispute between the parties is put to an end and peace is restored; securing the ends of justice being the ultimate guiding factor. No doubt, crimes are acts which have harmful effect on the public and consist in wrong doing that seriously endangers and threatens well-being of society and it is not safe to leave the crimedoer only because he and the victim have settled the dispute amicably or that the victim has been paid compensation, yet certain crimes have been made compoundable in law, with or without permission of the Court. In respect of serious offences like murder, rape, dacoity, etc; or other offences of mental depravity under IPC or offences of moral turpitude under special statutes, like Prevention of Corruption Act or the offences committed by public servants while working in that capacity, the settlement between offender and victim can have no legal sanction at all. However, certain offences which overwhelmingly and predominantly bear civil flavour having arisen out of civil, mercantile, commercial, financial, partnership or such like transactions or the offences arising out of matrimony, particularly relating to dowry, etc. or the family dispute, where the wrong is basically to victim and the offender and victim have settled all disputes between them amicably, irrespective of the fact

that such offences have not been made compoundable, the High Court may within the framework of its inherent power, quash the criminal proceeding or criminal complaint or F.I.R if it is satisfied that on the face of such settlement, there is hardly any likelihood of offender being convicted and by not quashing the criminal proceedings, justice shall be casualty and ends of justice shall be defeated. The above list is illustrative and not exhaustive. Each case will depend on its own facts and no hard and fast category can be prescribed.

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. "*

In view of the above, the present petition is allowed; the parties are allowed to compound the offences and as a consequence thereof, the impugned judgments and order passed by the Courts below are set aside and the petitioners are acquitted of the charges framed against them. The petitioners be released forthwith in this case, if not required in any other case.

(HARNARESH SINGH GILL)
JUDGE

14.01.2020

Mangal Singh

Whether reasoned/speaking?

Yes/No

Whether reportable?

Yes/No