

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-4723-2022
Reserved on: 07.02.2022
Pronounced on: 05.05.2022

State of Haryana
...Petitioner(s)
Versus
Sandeep Kumar & others
...Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA

Present:- Mr. Manish Bansal, DAG, Haryana
for the petitioner.

Mr. Vinod Ghai, Sr. Advocate with
Ms. Kirit Ahuja and Ms. Kanika Ahuja, Advocate
for respondent no.1.

Mr. Randeep Singh Rai, Sr. Advocate with
Mr. Farhad Kohli, Advocate
for respondents no.2 and 3.

ANOOP CHITKARA, J.

FIR No.	Dated	Police Station	Sections
369	9.6.2013	Jhajjar	406, 409, 120-B and 34 IPC

1. Aggrieved by dismissal of the application under Section 321 CrPC for withdrawing from prosecution against respondents no.1 to 4/accused as well as dismissal of revision petition, the State has come up before this Court under Section 482 CrPC.
2. Vide impugned order dated 5.10.2019, learned trial Court dismissed the application under Section 321 CrPC on the ground that now, the case has been fixed for recording the statements of the accused and as such, the prosecution could not satisfy the Court as to how withdrawal from the prosecution would further broad ends of public justice, public order and peace. Rather, as per learned Judicial Magistrate, the withdrawal would be detrimental to the criminal justice delivery system and would send a wrong signal to the society.
3. Feeling aggrieved by the aforesaid order dated 5.10.2019, the State challenged the same before Sessions Court by filing a revision petition. However, vide judgment

dated 21.12.2021, the revision petition was dismissed.

4. Feeling aggrieved, the State has come up before this Court.

5. On 07.02.2022, this Court passed the following order:-

“Notice.

Mr. Vinod Ghai, Sr. Advocate with Ms. Kirit Ahuja and Ms. Kanika Ahuja, Advocate joined the proceedings on behalf of respondent No.1 and Mr. Randeep Singh Rai, Sr. Advocate with Mr. Farhad Kohli, joined the proceedings on behalf of respondents No.2 and 3. Learned Sr. Counsels submit that State wants to withdraw the prosecution against the petitioners, therefore, being favourable decision, they do not want to file any response/reply.

Learned Senior Counsels further submits that respondents No.5 to 10 are formal in nature and they will not be affected by the outcome of order passed.

Given above, no notices are required to be issued to respondents No.5 to 10. As far as respondent No.4 is concerned, he has passed away as stated by learned Senior Counsel.

Arguments heard.

Judgment reserved.”

6. Section 321 CrPC empowers the State to withdraw from the prosecution with the consent of the Court. Before filing any such application, the public prosecutor must form his independent opinion and the Court must also permit withdrawal after referring to the reasons given, to satisfy that withdrawal of the prosecution is necessary for good and relevant reasons. This is to ensure that the Court’s supervisory jurisdiction over withdrawal from the prosecution is not diluted. In the present case, the application in question has been made in good faith and not to thwart or stifle the process of law. There is nothing that the permission was sought with ulterior motive nor the withdrawal is detrimental to public peace.

7. A perusal of application (Annexure P-4) clearly reveals that the Government of Haryana has taken a conscious decision to withdraw from the prosecution against the four accused. The Public Prosecutor after considering all the facts took an informed decision that this withdrawal would only further the broad ends of public justice, public order and peace and is not going to thwart or stifle the process of law. As per the paragraph 3 of the said application, the Public Prosecutor has stated that he has considered every aspect of the present case and after applying his mind reached onto a conclusion that the present case is a fit case for withdrawal.

8. As per paragraph 5 of the application, payment of the camels was already made to

the victims by Sanjay Gandhi Animal Care Centre and this fact is undisputed as per the reply filed in revision petition no.17 of 2018. When the animals were being moved to Baghpat, they were noticed to be in injured condition and the office bearers of the Sanjay Gandhi Animal Care Centre acted in good faith without charging even a penny from anybody. Their intention was to restrict the camels from being slaughtered, which was a noble purpose.

9. I have perused the application which is a well reasoned one as well as the impugned orders and it was not relevant to dismissed the application.

10. In the entirety of facts and circumstances of the case, it is found that withdrawal of the prosecution is in the larger interest of equity and for encouragement to NGOs to continue pursuing and working for good cause. Once the State has decided to withdraw from the prosecution after taking a conscious decision, it will not be relevant for the Court to reject the same by assuming any adverse impact on the society, in absence of any such data or report.

11. Given above, the present petition is allowed and the prosecution against respondents no.1 to 4-accused is allowed to be withdrawn in the terms of the application dated 28.09.2018 under Section 321 CrPC. Accordingly, bail bonds and surety bonds of the petitioners shall stand discharged. There would be no necessity for them to appear before the trial Court.

(ANOOP CHITKARA)
JUDGE

May 05, 2022
AK

Whether speaking/reasoned:	Yes
Whether reportable:	No.