

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(116)

CRM-43096-2021 in/and

CRM-M-11616-2021

Date of Decision : February 22, 2022

Krishana

.. Petitioner

Versus

Subhash Chander

.. Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Nipun Vashist, Advocate, for the petitioner.

Mr. Mukesh Kumar Verma, Advocate, for the respondent.

HARSIMRAN SINGH SETHI J. (ORAL)

CRM-43096-2021

Present application has been filed for preponing the date of hearing of the main petition i.e. CRM-M-11616-2021, which now stands adjourned to 02.05.2022.

Notice of the application to the counsel opposite.

Mr. Mukesh Kumar Verma, Advocate, who is present in the Court, accepts notice on behalf of the respondent and raises no objection for the grant of the prayer as raised in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the application is allowed and hearing

the main petition i.e CRM-M-11616-2021 is preponed from 02.05.2022 to today.

CRM-M-11616-2021

Present petition has been filed for quashing of the Complaint Case No. COMI/2170/2013 registered on 02.06.2012 titled as Subhash Chander versus Smt. Krishan and others wherein, the petitioner has been convicted vide order dated 13.12.2018 (Annexure P-2) passed by the Judicial Magistrate Ist Class, Rewari, against which order, the appeal is pending before the Sessions Court, on the basis of the compromise, which has been effected by the parties vide compromise deed dated 01.02.2021, a copy of which has been appended as Annexure P-4.

Learned counsel for the petitioner argues that the parties have entered into compromise and according to the said compromise, the parties want the complaint filed by respondent quashed as the claim of the respondent stands satisfied and respondent does not want to pursue the complaint any further though, the petitioner has already been convicted by the competent Court of law vide order dated 11.12.2018 and sentenced vide order dated 13.12.2018. Learned counsel for the petitioner further submits that as the sections of the IPC under which the petitioner has been convicted, are non compoundable, the present petition has been filed for quashing of the complaint as well as the order convicting and sentencing the petitioner, on the basis of the said compromise and reliance is placed upon the judgment of the Hon'ble Supreme Court of India in **Criminal Appeal No.1489 of 2012 titled as Ramgopal and another versus State of Madhya Pradesh, decided on 29.09.2021**. Learned counsel for the petitioner further

submits that the petitioner is ready to pay the cost for utilizing the valueable

time of the Court.

Learned counsel for the respondent concedes the factum of the compromise between the parties and raises no objection in case, the complaint filed by him is quashed and order of conviction and sentence of the petitioner passed by the competent Court of law dated 11.12.2018 and 13.12.2018 respectively, are quashed.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

The allegation on the basis of which the petitioner was convicted, is that a forged affidavit was produced to secure the transfer of electricity connection installed upon the land which was earlier owned by the respondent after the same was purchased by the petitioner. The allegations are person specific and are not general in nature and cannot be termed as crime against society and as the parties have already compromised their dispute, the only question is that whether on the basis of the compromise deed executed between the parties dated 01.02.2021 (Annexure P-4), the prayer of the petitioner in the present petition to quash the complaint and the consequent order of convicting the petitioner in the said complaint and sentencing him to undergo rigorous imprisonment should also be accepted or not.

A similar question had arisen before the Hon'ble Supreme Court of India in **Ramgopal's case (supra)** wherein also, after conviction, a compromise was effected between the parties and on the basis of the said compromise, the quashing of the proceedings including conviction and sentencing under non compoundable sections of the IPC was prayed for.

The Hon'ble Supreme Court of India held as under:-

19. We thus sum up and hold that as opposed to [Section 320](#) Cr.P.C. where the Court is squarely guided by the compromise between the parties in respect of offences 'compoundable' within the statutory framework, the extraordinary power enjoined upon a High Court under [Section 482](#) Cr.P.C. or vested in this Court under [Article 142](#) of the Constitution, can be invoked beyond the metes and bounds of [Section 320](#) Cr.P.C. Nonetheless, we reiterate that such powers of wide amplitude ought to be exercised carefully in the context of quashing criminal proceedings, bearing in mind: (i) Nature and effect of the offence on the conscious of the society; (ii) Seriousness of the injury, if any; (iii) Voluntary nature of compromise between the accused and the victim; & (iv) Conduct of the accused persons, prior to and after the occurrence of the purported offence and/or other relevant considerations.

20. Having appraised the aforestated parameters and weighing upon the peculiar facts and circumstances of the two appeals before us, we are inclined to invoke powers under [Article 142](#) and quash the criminal proceedings and consequently set aside the conviction in both the appeals. We say so for the reasons that:

Firstly, the occurrence(s) involved in these appeals can be categorized as purely personal or having overtones of criminal proceedings of private nature;

Secondly, the nature of injuries incurred, for which the Appellants have been convicted, do not appear to exhibit their mental depravity or commission of an offence of such a serious nature that quashing of which would override public interest;

Thirdly, given the nature of the offence and injuries, it is immaterial that the trial against the Appellants had been concluded or their appeal(s) against conviction stand dismissed;

Fourthly, the parties on their own volition, without any

coercion or compulsion, willingly and voluntarily have buried their differences and wish to accord a quietus to their dispute(s);

Fifthly, the occurrence(s) in both the cases took place way back in the years 2000 and 1995, respectively. There is nothing on record to evince that either before or after the purported compromise, any untoward incident transpired between the parties;

Sixthly, since the Appellants and the complainant(s) are residents of the same village(s) and/or work in close vicinity, the quashing of criminal proceedings will advance peace, harmony, and fellowship amongst the parties who have decided to forget and forgive any illwill and have no vengeance against each other; and

Seventhly, the cause of administration of criminal justice system would remain unaffected on acceptance of the amicable settlement between the parties and/or resultant acquittal of the Appellants; more so looking at their present age.”

Keeping in view the fact that in the present case, the allegations against the petitioner are not of committing illegal acts against the society at large and the compromise between the parties is genuine and voluntarily, the prayer of the petitioner for quashing of the complaint and consequent conviction and sentence is accepted. The Complaint Case No. COMI/2170/2013 registered on 02.06.2012 titled as Subhash Chander versus Smt. Krishan and others and the order passed by the Judicial Magistrate Ist Class, Rewari dated 11.12.2018 convicting the petitioner and order dated 13.12.2018 sentencing the petitioner to undergo the sentence, are set aside. However, the same will be subject to payment of Rs.15,000/- as cost to be deposited with Prabh Aasra, (Unit of) u/o Universal Disabled Care Taker Social Welfare Society (who are maintaining Orphans) in Bank

Account No.014894600000970, Yes Bank Branch, SCO 151/152, Sector 9-C, Chandigarh or A/C No.100035657241 of Indusind Bank Sector 54 Phase II Mohali Branch.

February 22, 2022
harsha

(HARSIMRAN SINGH SETHI)
JUDGE

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