

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

Sr. No.274

CRR-1703-2022 (O&M)

Date of Decision: September 22, 2022

Mann Singh alias Mana

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present:- Mr. Hitesh Verma, Advocate, for the petitioner.

Mr. Kamal Preet Bawa, AAG, Punjab.

Ms. Amarinder Kaur, Advocate
for respondent No.2.

AMAN CHAUDHARY, J.

The present revision petition has been filed against the judgment of conviction and order of sentence dated 10.08.2017 passed by the Chief Judicial Magistrate, Bathinda, vide which the petitioner along with Parkash Singh and Nachhattar Singh were convicted and sentenced to undergo rigorous imprisonment for 2 years and to pay fine of Rs.1,000/- each under Section 420 IPC. Against the said judgment/order, appeal filed by the petitioner was dismissed vide judgment dated 14.10.2019 by Additional Sessions Judge, Bathinda.

Concisely, the facts of the case are that the FIR was registered on a complaint made by Krishan Rani a resident of Lal Singh Basti, Bathinda, wherein she had stated that the accused persons in

connivance of each other, showed her above said plot and entered into an agreement with her by playing fraud upon her and on the basis of same, she had given Rs.1,00,000/- as earnest money in the presence of witnesses and writing was also executed in this regard and the date for registration of sale deed was fixed as 10.08.2012. She later on came to know that the plot, which was shown to her and Parkash Singh was presented as owner of the same, but he was not owner of the said plot. In this way, accused Parkash Singh son of Jangir Singh, Nachhattar Singh son of Harnek Singh, residents of Gali No.10, Lal Singh Basti, Bathinda, Mann Singh son of Sadhu Singh, r/o Gali No.1, Hans Nagar, Bathinda and Kamla Rani wife of Inder Singh, r/o Gali No.24, Ajit Road, Ghore Wala Chowk, Bathinda for cheating her by preparing forged agreement to sell of land measuring 59-1/2 sq. yards, comprised in khasra No.4398 min (0-1), khata No.4.

The said application was marked by the SSP Bathinda to DSP (D) for enquiry. After conducting the enquiry, Ranjit Singh, DSP (D) found that accused Parkash Singh, Nachhattar Singh, Suba Singh, Mann Singh and Kamla Rani in furtherance of common intention of each other have cheated the complainant for Rs.1,00,000/- by entering into two agreements to sell but not executed and registered the sale deed in her favour. He recommended for registration of FIR against the accused persons under Section 420 IPC. Said report was sent to DDA (Legal) for getting opinion, who has opined that offence under Section 420 IPC was found to be made out against accused persons. Thereafter SSP, Bathinda directed the SHO, P.S. Civil Lines for registration of FIR and for getting

the investigation conducted. FIR was registered by ASI Gurtej Singh No.1261 and file was entrusted to Incharge E.O. Wing, Bathinda for further investigation, upon which ASI Darshan Singh, EOW Bathinda conducted the investigation. Statements of witnesses were recorded. Thereafter, further investigation was conducted by ASI Varinder Kumar No.746. On 9.4.2014, ASI Varinder Kumar alongwith fellow official arrested the accused Mann Singh @ Mana on the identification of SI Gurwinder Singh. His grounds of arrest memo and personal search memo were prepared. Statements of witnesses were recorded. On 10.4.2014, accused was produced before the Court and his 14 days judicial remand was obtained and he was lodged in Central Jail, Bathinda. On 6.8.2014, ASI Jaspal Singh alongwith fellow officials reached at Multania Bridge, there they apprehended one person on the basis of suspicion and asked about his name and address, who disclosed his name as Parkash Singh, above named accused. He was arrested in this case after investigation and his grounds of arrest memo and personal search memo were prepared. Statements of witnesses were recorded. On 7.8.2014, ASI Varinder Kumar with the help of fellow officials apprehended accused Nachhattar Singh from his residence. His grounds of arrest memo and personal search memo were prepared. One day police remand of accused Parkash Singh was obtained and he was lodged in P.S. Civil Lines, Bathinda. On 8.8.2014, accused were produced before the Court and their judicial remand was obtained and they were lodged in Cental Jail, Bathinda. During investigation, Sukhjit Kaur wife of Suba Singh moved one application to DIG, Range Bathinda regarding

innocence of her husband. Said application was enquired into by SP (City), Bathinda and declared Suba Singh as innocent vide his report No.164/5C/SP City Dated 03.12.2013. Accused Kamla Rani wife of Inder Singh is evading her arrest and after her arrest, supplementary challan against her will be presented. After completion of investigation in all respects, challan was presented against the accused Parkash Singh, Nachhatar Singh and Mann Singh.

Finding a prima facie case regarding offences punishable under sections 420 of the Indian Penal Code, charge was framed against the accused persons for trial, to which they pleaded not guilty and claimed trial. Thereafter, the prosecution evidence was commenced.

In order to prove its case, prosecution examined HC Gurwinder Singh, as PW-1; Mohinder Sachdeva, as PW-2; ASI Jaspal Singh No.1418/BTI, as PW-3; ASI Nirmal Singh, as PW-4; ASI Varinder Kumar No.746, as PW-5; Ranjit Singh, Retd. DSP, who appeared into witness box as PW-6; Meharjit Singh, Senior Assistant, as PW-7; Jagdish Singh Patwari, as PW-8; Bhola Nath, Stamp Vendor, as PW-9 and complainant Krishana Rani, who appeared into witness box as PW-1. Thereafter, evidence of prosecution was closed by order dated 7.7.2017.

The statements of accused persons under section 313 of Code of Criminal Procedure was recorded separately wherein all the incriminating evidence produced against the accused was put to them in question answer form to which they denied and claimed false implication.

Accused did not examine any witness in defence and closed the same.

After hearing the arguments of the learned counsel for the parties and having gone through the record of the case, the learned trial court convicted and sentenced the accused/petitioner as under:-

Under Section(s)	Sentence	Fine	In default of payment of fine
420 IPC	RI for 2 years	Rs.1,000/-	SI for 30 days

Aggrieved, convict-petitioner filed appeal, which was dismissed by the first Appellate Court vide impugned judgment dated 14.10.2019.

Hence, the present revision petition.

The petitioner had prayed for compounding of the offence under Section 320 Cr.P.C. as compromise between the parties had been arrived at on 28.07.2022 (Annexure P-1), which fact was affirmed by the learned counsel for the complainant.

Notice of motion in this revision petition was issued on 22.08.2022 and both the parties were directed to appear before the trial Court/Illaq Magistrate for recording their statements in the context of genuineness of the compromise. A report dated 17.09.2022 of the Judicial Magistrate Ist Class, Bathinda has been received, wherein it has been stated that the dispute between the parties has been amicably settled.

The Hon'ble Full Bench of this Court in case Kulwinder Singh vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052 and Hon'ble Division Bench of this Court in case Sube Singh and another vs. State of Haryana and another, 2013(4) RCR (Criminal) 102 observed that compounding of offence can be allowed even after conviction, during proceedings of the appeal against conviction pending in Sessions Court

and in case of involving non-compoundable offence.

The Hon'ble Apex Court in the case of Gian Singh Versus State of Punjab and another. 2012(4) RCR (Criminal) 543 has held as under:-

"57. The position that emerges from the above discussion can be summarised thus: the power of the High Court in quashing a criminal proceeding or FIR or complaint in exercise of its inherent jurisdiction is distinct and different from the power given to a criminal court for compounding the offences under Section 320 of the Code. Inherent power is of wide plenitude with no statutory limitation but it has to be exercised in accord with the guideline engrafted in such power viz: (i) to secure the ends of justice or (ii) to prevent abuse of the process of any Court. In what cases power to quash the criminal proceeding or complaint or F.I.R. may be exercised where the offender and victim have settled their dispute would depend on the facts and circumstances of each case 2 of 4 and no category can be prescribed. However, before exercise of such power, the High Court must have due regard to the nature and gravity of the crime. Heinous and serious offences of mental depravity or offences like murder, rape, dacoity, etc. cannot be fittingly quashed even though the victim or victim's family and the offender have settled the dispute. Such offences are not private in nature and have serious impact on society. Similarly, any compromise between the victim and offender in relation to the offences under special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity etc; cannot provide for any basis for quashing criminal proceedings involving such offences. But the criminal cases having overwhelmingly and predominatingly civil flavour stand on different footing for the purposes of

quashing, particularly the offences arising from commercial, financial, mercantile, civil, partnership or such like transactions or the offences arising out of matrimony relating to dowry etc. or the family disputes where the wrong is basically private or personnel in nature and the parties have resolved their entire dispute. In this category of cases, High Court may quash criminal proceedings if in its view, because of the compromise between the offender and victim, the possibility of conviction is remote and bleak and continuation of criminal case would put accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case despite full and complete settlement and compromise with the victim. In other words, the High Court must consider whether it would be unfair or contrary to the interest of justice to continue with the criminal proceeding or continuation of the criminal proceeding would tantamount to abuse of process of law despite settlement and compromise between the victim and wrongdoer and whether to secure the 3 of 4 ends of justice, it is appropriate that criminal case is put to an end and if the answer to the above question(s) is in affirmative, the High Court shall be well within its jurisdiction to quash the criminal proceeding."

The same view has been reiterated by Hon'ble the Apex Court in case Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482.

In view of the judgments referred to above and the matter having been settled between the parties, as affirmed by the counsel for the respondent, this Court finds that no useful purpose would be served in continuing the proceedings, thus, in order to secure the ends of justice,

the criminal proceedings in the present case deserve to be quashed by compounding the offences.

Resultantly, the present petition is allowed and judgment of conviction and order of sentence dated 10.08.2017 passed by the Chief Judicial Magistrate, Bathinda and all consequential proceedings arising therefrom are quashed.

September 22, 2022
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(AMAN CHAUDHARY)
JUDGE

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