

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

326

CRR-933-2009 (O&M)
Date of decision: 31.05.2023

Joga Singh and another

....Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Vaibhav Katoch, Advocate for the petitioners

Mr. H.S. Sullar, Sr. DAG Punjab

AMAN CHAUDHARY. J.

1. The challenge in the present revision petition is to the judgement dated 08.04.2009, passed by learned Sessions Judge, Rupnagar dismissing the appeal preferred against the judgement of conviction and order of sentence dated 02.05.2008 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib, whereby petitioners were convicted under Sections 420 and 120-B IPC and sentenced to undergo rigorous imprisonment for a period of 2½ years and to pay fine of Rs.2,000/-.

2. The facts of the case are that on 30.06.1998 an application to the police was submitted by one Jawali, a septuagenarian lady, widowed at a young age, who was since then residing at her maternal home at village Dumewal with her younger brother Amar Nath, stating thereon that after the death of her father-in-law, she got the property of the share of her deceased husband and was thus the owner in possession. The said property was being looked after by her

brother Amar Nath, who died about 8-9 months ago. During that period, the son of her brother-in-law namely Joga Singh started visiting her house and in the month of January, 1997 on the pretext of getting her treatment for asthma and grant of old age pension, he took her to Nurpur Bedi where her thumb impression on many papers were obtained. After a month she received information that her land was sold and an enquiry have been made, it was revealed that Joga Singh in connivance with the witnesses and deed writer had fraudulently got made a power of attorney dated 21.01.1997 in his favour, on the basis of which, he got a sale deed dated 06.02.1997 executed in favour of his wife namely Gurbax Kaur. FIR was registered against the accused persons. After completion of investigation, challan was presented. Charges were framed under Section 420/120-B IPC against them, to which they pleaded not guilty and claimed trial.

3. To prove its case, the prosecution examined as many as 7 witnesses. Thereafter, statements of both the accused under section 313 Cr.P.C were recorded in which, they denied all the incriminating circumstances appearing in evidence against them and pleaded innocence and false implication. In defence, no witness was examined.

4. On evaluating the evidence led by the parties and hearing them, the trial Court convicted and sentenced the accused-petitioners as mentioned in para 1.

5. Aggrieved accused-petitioners filed an appeal before the Court of Sessions, which came to be dismissed vide judgment dated 08.04.2009.

6. Hence the present revision petition.

7. The dispute is *inter se* the family members. The matter had been settled between them and on that basis, the petitioners had filed an application

bearing CRM-35314-2019 praying for compounding of the offence in view of the compromise, Annexure A-3.

8. This Court vide order dated 03.05.2023, directed the parties to appear before the trial Court/Illaqa Magistrate for recording their statements with regard to the settlement.

9. A report dated 22.05.2023 of the Judicial Magistrate Ist Class, Sri Anandpur Sahib has been received. The complaint was originally filed by Jawali Devi, who has since expired in the year 2002, hence Hardev Singh, being the son of her deceased brother, and her legal heir was pursuing the present revision petition. However, he also died young, thus, his wife, respondent No.2 being his legal heir was impleaded. The compromise was entered into by the accused-petitioners with said respondent No.2. In her statement recorded by the JMIC, she has stated that the compromise has been entered into voluntarily, without any pressure and coercion and out of her free will.

10. This Court in case **Kulwinder Singh vs. State of Punjab and another**, 2007(3) RCR (Criminal) 1052 and in **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.

11. Hon'ble The Supreme 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.”

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

13. In view of the judgments referred to above, perusing the report of the trial Court regarding amicable settlement between the petitioners and the complainant party, who are family members, this Court finds that compounding the offences will accord a quietus to all disputes between the parties and it is in the interest of both sides to bury the hatchet and lead a peaceful life. Thus, no useful purpose would be served in continuing the proceedings and in order to secure the ends of justice, the criminal proceedings in the present case deserve to be quashed.

14. As a consequence, the judgment dated 08.04.2009, passed by learned Sessions Judge, Ropar and judgment of conviction and order of sentence dated 02.05.2008 passed by learned Sub Divisional Judicial Magistrate, Anandpur Sahib, whereby petitioners were convicted under Sections 420 and 120-B IPC are set aside and petitioners are acquitted of the charges framed against them.

15. The present revision petition is disposed of.

16. Pending application, if any, shall stand disposed of accordingly.

(AMAN CHAUDHARY)
JUDGE

31.05.2023

S.Sharma(syr)

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No