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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1) CRA-S-1600-2023(O&M)
Date of decision: 28.07.2023

SOMBIR AND ORS. ...PETITIONERS
VERSUS

STATE OF HARYANA ...RESPONDENT

2) CRM-M-16340-2023(O&M)

SOMBIR AND ORS. ...PETITIONERS
VERSUS

SUMITRA AND ANR. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Rakesh Nehra, Sr. Advocate with
Mr. Sourabh Bhorla, Advocate and
Mr. Ankit Yadav, Advocate for the petitioners.

Mr. Ram K. Singla, DAG, Haryana.

Mr. Reetesh Kumar, Advocate for
Mr. Sankalp Gehlawat, Advocate
for respondent No.1 in CRM-M-16340-2023.

VIVEK PURI,J. (ORAL)

1. Custody certificates of the petitioners have been placed on record.
2. By the way of CRM-M-16340-2023, the petitioners are seeking to quash on the basis of compromise effected between the parties the criminal complaint No. 2015/17 titled as 'Sumitra Versus Sombir and Others' and also the judgment and order dated 23.02.2023/24.02.2023 passed by the Additional Sessions Judge, Bhiwani vide which the petitioners have been convicted and sentenced.
3. The criminal appeal No.1600 of 2023 has been preferred by the petitioner/appellants assailing the judgment of conviction dated 23.02.2023 and order of sentence dated 24.02.2023. The criminal appeal is also being taken up to-day in view of the amicable settlement between the parties.

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4. Briefly, Sumitra-respondent No.1 had submitted a complaint against the petitioners alleging that on 01.08.2015 at about 04:30 PM, the petitioners had inflicted fist blows which resulted in miscarriage. The petitioners were convicted under Sections 323/313/506 read with Section 34 IPC by the trial Court in terms of judgment dated 23.02.2023 and were sentenced to undergo rigorous imprisonment for a period of 07 years besides payment of fine.

5. It has been submitted that the sentence imposed upon petitioner No.4 has been suspended in terms of order dated 31.03.2023 passed in CRM-M-16340-2023. The petitioners No.1 to 3 are still confined in jail. It has been further submitted that the dispute has been amicably settled between the parties with the intervention of the respectables in terms of compromise deed dated 18.03.2023 (Annexure P-1).

6. In terms of order dated 31.03.2023 passed in CRM-M-16340-2023, the parties were directed to appear before the learned Illaqa Magistrate/trial Court within a period of two weeks for getting the statements recorded qua the compromise. The report of the Court of learned Additional Chief Judicial Magistrate, Bhiwani has been received to the following :-

" i) In the present case, there is no FIR. The present case was a criminal complaint bearing No.211 of 2015/2017, which was filed by complainant Sumitra against total four accused namely Sangeeta, Sombir, Anand and Sanjay and vide judgment dated 23.02.2023 and order dated 24.02.2023 passed by Court of learned ASJ, Bhiwani, above-named accused were convicted and sentenced for the commission of offence under Sections 323/313/506 and 34 IPC.

ii) As per report submitted by Police, convicts namely Sangeeta, Sombir, Anand and Sanjay have not been

declared proclaimed offender.

iii) The compromise is genuine, voluntary and without any coercion or undue influence.

iv) As per report submitted by Police, there is no other criminal case against any accused.

7. Learned Senior counsel for the petitioner submits that the petitioners were convicted and sentenced but subsequently, the dispute has been amicably settled between the parties. It is a complaint case and amicable settlement will help in maintaining cordial relations between the parties. Moreover, respondent No.2 was allegedly running second month of pregnancy which was at the initial stage. Petitioners No.1 to 3 have undergone custody for a period of more than 05 months and none of the petitioners is involved in any other case.

8. Learned State counsel as well as counsel for respondent No.1 have not disputed the aforesaid factual aspects.

9. After hearing the learned counsel for the parties and going through the record of the case, this Court is of the considered opinion that it is a fit case for exercising the inherent jurisdiction of this Court under Section 482 Cr.P.C., so as to secure the ends of justice because the parties have arrived at a settlement, out of the Court, by way of compromise. The compromise is without any pressure and a genuine one. In such a situation, continuation of the prosecution would result in sheer abuse of process of law.

10. The controversy in the instant case does not indicate that the same involves heinous or serious offences and furthermore, the private dispute has been sought to be amicably settled. Consequently, a deserving case is made out where the court should exercise the power to secure the ends of justice.

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11. For the aforesaid view, this Court finds support from *Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal) 1052*, upheld by Hon'ble Apex Court in *Gian Singh Vs. State of Punjab and others (2012) 10 SCC 303*. In the decision rendered in *Ramgopal and another Versus State of Madhya Pradesh 2021(4)RCR(Crl.)322*, it has been held by the Supreme Court that non-compoundable of criminal cases of predominantly private nature can be quashed under Section 482 Cr.P.C. even, if the compromise is reached after conviction.

12. In these set of circumstances, criminal complaint No. 2015/17 titled as 'Sumitra Versus Sombir and Others' and the judgment of conviction dated 23.02.2023 and order of sentence dated 24.02.2023 passed by the learned Additional Sessions Judge, Bhiwani vide which the petitioners were convicted and sentenced are set aside on the basis of the compromise between the parties. Petitioners No.1 to 3 who are in custody be released forthwith if not required in any other case.

13. Consequently, the petition as well as appeal stands disposed of.

28.07.2023

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(VIVEK PURI)
JUDGE

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