

230

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CRR-4608-2015 (O&M)
Date of decision: 02.05.2023

Khem Chand and others

....Petitioners

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Rhythem Bajaj, Advocate for
Mr. S. P. S. Sidhu, Advocate
for the petitioners

Mr. Kunal Vinayak, Asstt. AG, Punjab

Mr. Lajpat Rai Sharma, Advocate for
Mr. Parmish Sachdeva, Advocate
for respondents No. 2 and 3

AMAN CHAUDHARY. J.

1. The present revision has been filed against the judgment dated 07.11.2015 passed by the Additional Sessions Judge, Fazilka whereby the judgment and order of sentence dated 24.04.2014 passed by the Chief Judicial Magistrate, Fazilka acquitting the petitioners in case FIR No.167 dated 25.11.2005, registered under Sections 452, 325, 323, 148, 149 IPC at Police Station Fazilka, was set aside and petitioners were convicted and sentenced as under:

Under Section	Sentence to undergo rigorous imprisonment	Fine	Default Sentence
458 IPC	three years each	Rs.1000/- each	one month

325 IPC	two years each	Rs.1000/- each	one month
323 IPC	one year each	Rs.1000/- each	one month
148 IPC	one year each	Rs.2000/- each	one month

2. Briefly put, the facts of the case are that the complainant-Mithan Lal made a statement that when he was at home, petitioner Khem Chand, armed with 'dang', his sons Sonu and Raman Kumar, armed with 'khurpa', Kamal Kumar armed with 'punch', Rajesh Kumar @ Raju and 5-7 other persons entered his house. Khem Chand raised a 'lalkara' to catch him, upon Sonu caught hold of him and Raman Kumar gave a 'khurpa' blow on his hand, Kamal Kumar gave a punch blow on his nose. They also threw bricks on the petitioners alongwith some unknown persons, who came to the house of the complainant armed with khurpa and caused injuries as well as gave beatings to him. Based on these allegations, an FIR was registered against the accused persons. After investigation, challan was presented in the Court. The petitioners were charge-sheeted under Sections 458, 323, 325, 148 and 149 IPC, to which they pleaded not guilty and claimed trial.

3. To prove its case, the prosecution had examined six prosecution witnesses. On closure of evidence, statements of the accused were recorded under Section 313 Cr.P.C. and all the incriminating material was put to them, which they denied and pleaded false implication. No witness was examined by them in defence.

4. On scrutinizing the evidence led by the parties and hearing the counsel, the trial Court finding the prosecution case highly doubtful acquitted the accused persons.

5. Aggrieved complainant filed an appeal, which was allowed by the learned Additional Sessions Judge, Fazilka vide impugned judgment dated 07.11.2015 and convicted and sentenced the petitioners as noticed above.

6. Hence the present revision petition.

7. The petitioners have prayed for compounding of the offences under Section 320 Cr.P.C. as compromise between the parties had been arrived at on 28.11.2022, a fact which was affirmed by the learned counsel for the complainant.

8. Vide order dated 16.01.2023 both the parties were directed to appear before the trial Court/Illaqa Magistrate for recording their statements in the context of genuineness of the compromise. A report dated 15.03.2023 of the Chief Judicial Magistrate, Fazilka has been received, wherein it has been stated that the dispute between the parties has been amicably settled.

9. The Full Bench of this Court in the case of **Kulwinder Singh vs. State of Punjab and another**, 2007(3) RCR (Criminal) 1052 and the Division Bench 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.

10. Hon'ble The Supreme Court in the case of **Gian Singh vs. State of Punjab and another**, 2012(4) RCR (Criminal) 543 has held thus:

“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 predominately 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.”

11. 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) 6 SCC 466.

12. In view of the enunciation of law referred to above and the fact that both the parties are the residents of same vicinity, the matter having been amicably settled between them, as affirmed by the counsel for the injured-private respondents and now they are residing harmoniously, 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.

13. Resultantly, the present revision petition is allowed and judgment of conviction and order of sentence dated 07.11.2015 passed by the Additional Sessions Judge, Fazilka are hereby set aside. Their bail bonds shall stand discharged.

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

(AMAN CHAUDHARY)
JUDGE

02.05.2023
Mehak

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No