

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

252

CRR No.871 of 2023 (O&M)
Date of Decision: 22.04.2024

LAKHVEER SINGHPetitioner(s)
Vs
ASHOK KUMAR AND ANR.Respondent(s)

CORAM: *HON'BLE MR. JUSTICE HARKESH MANUJA*

Present: Mr. Charanpuneet Singh, Advocate
for the petitioner.

Mr. Yashasvi Goyal, Advocate for
Mr. Gaurav Gogna, Advocate
for respondent No.1.

Mr. Rahul Jindal, Asstt. A.G., Punjab
for respondent No.2.

HARKESH MANUJA, J. (Oral)

[1]. By way of present revision petition, challenge has been laid to the judgment dated 09.03.2023 passed by the court of Sessions Judge, Bathina whereby appeal preferred against the judgment of conviction and order of sentence dated 23.09.2022 passed by the Judicial Magistrate Ist Class Bathinda was dismissed thereby maintaining the said judgment of conviction and order of sentence passed by the Trial Court.

[2]. Having been implicated as an accused in a complaint arising out Section 138 of Negotiable Instruments Act read with Section 420 IPC, the petitioner vide judgment of conviction and order of sentence dated 23.09.2022 was sentenced to undergo rigorous imprisonment for a period of two years under Section 138 of Negotiable Instruments Act. He was also directed to pay compensation to the complainant to the tune of total amount of cheque i.e.

Rs.4,54,161/- along with interest @ 9% per annum from the date of cheque and in default thereof, he was further liable to undergo simple imprisonment for a period of one month.

[3]. Aggrieved thereof, the petitioner filed an appeal which was dismissed vide judgment dated 09.03.2023 whereby the judgment of conviction and order of sentence dated 23.09.2022 passed by the Trial Court was up-held. Thus, the present petition came to be filed before this Court. The sentence already stands suspended vide order dated 25.04.2023 passed by this Court. Prior thereto, the petitioner has already undergone actual sentence of 01 month and 16 days.

[4]. During pendency of the aforesaid appeal, better sense prevailed and both the parties settled their dispute. An amount of Rs.1,02,000/- was paid to respondent No.1 on 25.04.2023 before this Court vide demand draft bearing No.081487 dated 07.04.2023. Another sum of Rs.3,00,000/- was paid to respondent No.1 on 06.02.2024 vide demand draft No.081559 dated 02.02.2024 and remaining amount of Rs.52,000/- has been paid to him today vide demand draft No.500700 dated 16.04.2024.

[5]. In view of the above noted subsequent development, learned counsel for the petitioner submits that the parties having settled their disputes in order to bury their differences, the Complaint in question along with all consequential proceedings arising therefrom i.e. judgment dated 09.03.2023 passed by the Sessions Judge, Bathinda and judgment of conviction and order of sentence dated 23.09.2022 passed by the Judicial Magistrate Ist Class, Bathinda be thus, quashed. For the said purpose, learned counsel for the petitioner places reliance upon judgment of this court passed in **"Kulwinder Singh and others vs. State of**

Punjab”, 2007(3) RCR (Criminal) 1052 and “Gian Singh vs. State of Punjab and another”, 2012(4) RCR (Crl.)543.

[6]. On the other hand, learned counsel for the complainant-respondent No.1 while accepting the factum of settlement, raises no objection in allowing the present revision petition thereby quashing the judgment of conviction and order of sentence passed by the Courts below along with all subsequent proceedings arising therefrom as the entire due already stands paid by the petitioner.

[7]. The parties having settled their disputes and nothing remaining due *qua* the petitioner; so as to maintain peace and harmony and also to save the judicial time as no useful purpose would be served by proceeding further with the criminal proceedings, it would be rather in the interest of both the parties to render a complete quietus to the criminal proceedings and thus, no cause remains for this Court to invest further time and effort in adjudicating this revision petition on merits. My aforesaid view is mainly derived from the proposition of law laid down by the Hon'ble Supreme Court in case of **“Ram Gopal vs. State of Madhya Pradesh, 2021(4) RCR (Criminal) 322.** Relevant paras 18 and 19 thereof are reproduced hereunder:-

“18. It is now a well crystalized axiom that the plenary jurisdiction of this Court to impart complete justice under Article 142 cannot ipso facto be limited or restricted by ordinary statutory provisions. It is also noteworthy that even in the absence of an express provision akin to Section 482 Cr.P.C. conferring powers on the Supreme Court to abrogate and set aside criminal proceedings, the jurisdiction exercisable under Article 142 of the Constitution embraces this Court with scopious powers to quash criminal proceedings also, so as to secure complete justice. In doing so, due regard must be given to the over-arching objective of sentencing in the criminal justice system, which is grounded on the sublime philosophy of

maintenance of peace of the collective and that the rationale of placing an individual behind bars is aimed at his reformation.

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 482Cr.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.”

[8]. Thus, in view of the above as well as keeping in mind the law laid down in the aforementioned judgments, the present petition is allowed and judgment dated 09.03.2023 passed by the Sessions Judge, Bathinda; judgment of conviction and order of sentence dated 23.09.2022 passed by the Judicial Magistrate Ist Class, Bathinda, along with all consequential proceedings arising therefrom are hereby quashed *qua* the petitioner and he is acquitted of the offence under Section 138 of Negotiable Instruments Act relating to Complaint Case bearing COMA No.3655 of 2019.

[9]. All pending applications, if any, shall also stand disposed of.

April 22, 2024
Atik

Whether speaking/reasoned
Whether reportable

(HARKESH MANUJA)
JUDGE

Yes/No
Yes/No