

251 IN THE HIGH COURT OF PUNJAB AND HARYANA
CHANDIGARH

CRM-M-35995-2022 (O&M)

Date of Decision: 07.03.2024

MALKEET SINGH AND OTHERS

...Petitioners

V/S

STATE OF PUNJAB AND ANOTHER

...Respondents

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: None for the private parties.

Mr. Rishabh Singla, AAG Punjab.

HARPREET SINGH BRAR J. (Oral)

1. This petition has been filed under Section 482 of the Code of Criminal Procedure seeking quashing of FIR No. 19 dated 21.02.2012 registered under Sections 326, 324, 323, 148 and 149 of Indian Penal Code at Police Station Dhariwal, District Gurdaspur as well as the judgment of conviction and quantum of sentence dated 03.10.2017 (Annexure P-2) and all the subsequent proceedings arising therefrom in view of the compromise (Annexure P-3).

2. The following order was passed on 12.10.2022:

“xxx

CRM-M-35995-2022

The present petition has been moved invoking jurisdiction of this Court under Section 482 Cr.P.C. by the petitioners seeking quashing of FIR No.19 dated 21.02.2012, registered for offences punishable under Sections 326, 324, 323, 148 & 149 of the Indian Penal Code, at Police Station Dhariwal, District Gurdaspur and all proceedings subsequent thereto including judgment of conviction and order of sentence dated 03.10.2017.

Learned counsel for the petitioners submits that the petitioners are in appeal and the same is stated to be pending before the Session Judge, Gurdaspur and is now fixed for

26.10.2022. *He further relies upon para 13 of Ram Gopal and another vs. State of Madhya Pradesh, 2021(4) R.C.R. (Criminal)*

322. *Para 13 is as under:-*

"13. It appears to us that criminal proceedings involving non-heinous offences or where the offences are pre-dominantly of a private nature, can be annulled irrespective of the fact that trial has already been concluded or appeal stands dismissed against conviction. Handing out punishment is not the sole form of delivering justice. Societal method of applying laws evenly is always subject to lawful exceptions. It goes without saying, that the cases where compromise is struck post- conviction, the High Court ought to exercise such discretion with rectitude, keeping in view the circumstances surrounding the incident, the fashion in which the compromise has been arrived at, and with due regard to the nature and seriousness of the offence, besides the conduct of the accused, before and after the incidence. The touchstone for exercising the extraordinary power under Section 482 Cr.P.C. would be to secure the ends of justice. There can be no hard and fast line constricting the power of the High Court to do substantial justice. A restrictive construction of inherent powers under Section 482 Cr.P.C. may lead to rigid or specious justice, which in the given facts and circumstances of a case, may rather lead to grave injustice. On the other hand, in cases where heinous offences have been proved against perpetrators, no such benefit ought to be extended, as cautiously observed by this Court in Narinder Singh & Ors. vs. State of Punjab & Ors. and Laxmi Narayan (Supra)."

Notice of motion for 02.02.2023.

On the asking of the Court, Mr. Arun Gupta, AAG, Punjab. accepts notice on behalf of respondent No.1-State. Mr. Abhishek K.Kathial, Advocate appears and accepts notice on behalf of respondent No.2 and admits the fact of there being a compromise between the parties which has been placed on record as Annexure P-3.

In view of the above, the parties, i.e. the petitioners as well as respondent No.2 are directed to appear before the

appellate Court on 26.10.2022. On their doing so, the learned appellate Court shall record their statements and furnish its report to this Court by the next date of hearing on the following aspects:-

- 1. Number of persons arrayed as accused in the FIR.*
- 2. Whether any accused is proclaimed offender?*
- 3. Whether the compromise is genuine, voluntary and without any coercion or undue influence?*
- 4. Whether the accused persons are involved in any other case or not?*
- 5. The trial Court is also directed to record the statement of the Investigating Officer as to how many victims/complainants are there in the FIR.*

A copy of the report be also sent to the Registrar Judicial of this Court.

Needless to say that in case for any reason the statements are not recorded on the aforesaid date, the learned Illaqa Magistrate/trial Court shall be at liberty to call the parties on any other date but not later than a week thereafter.”

3. In compliance of the aforesaid order, a report has been received from the concerned jurisdictional Court that the compromise between the parties is genuine and arrived at without any pressure or coercion from anyone.

4. In view of the compromise and the ratio of law laid down by the Hon'ble Supreme Court in **Narinder Singh and others vs. State of Punjab and another, (2014) 6 SCC 466, Ramgopal and another Vs. State of Madhya Pradesh 2021 SCC OnLine SC 834 and Shakuntala Sawhney (Mrs) Vs. Kaushalya (Mrs.) and others (1980) 1 SCC 63** and Full Bench of this Court in **Kulwinder Singh Vs. State of Punjab 2007 (3) RCR (Crl.) 1052**, this petition is allowed and FIR No. 19 dated 21.02.2012 registered under Sections 326, 324, 323, 148 and 149 of Indian Penal Code at Police Station Dhariwal, District Gurdaspur as well as the judgment of conviction and quantum of sentence dated 03.10.2017 (Annexure P-2)

passed by learned Judicial Magistrate Ist Class, Gurdaspur and all the subsequent proceedings arising therefrom are quashed, qua the petitioners.

07.03.2024
Ajay Goswami

(HARPREET SINGH BRAR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No