

2024:PHHC:051413

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

286

CRM-M-48753-2023
Date of Decision :April 16, 2024

SURESH SALARIA AND ANOTHER

.....Petitioners

VERSUS

STATE OF PUNJAB AND ANOTHER

.....Respondents

CORAM: HON'BLE MR. JUSTICE KULDEEP TIWARI

Present : Ms.Himani Kapila, Advocate
for the petitioners.

Mr. Akshay Kumar, AAG, Punjab.

Ms. Ramandeep Kaur, Advocate
for respondent No.2.

KULDEEP TIWARI. J.(Oral)

1. Learned counsel for the petitioners submits that that Section 326 of the IPC, has also been added in the instant FIR, at the time of submitting the final report by the prosecution, therefore, the said section could not be mentioned in head note, and prayer clause of the instant petition. She made a request to the Court, to pass an appropriate order, on her oral request to add the aforesaid Section in the head note, and prayer clause, and dispose of main petition.
2. On the oral request of learned counsel for the petitioners, Section 326 IPC, is ordered to be added in the head note as well as in the prayer clause of the petition.
3. Registry is directed to make necessary corrections in the head note and prayer clause of the petition by adding Section 326 IPC.

4. The instant petition, as cast under Section 482 of the Cr.P.C., proffers the hereinafter extracted relief, as craved by the petitioners, inasmuch as, quashing of the FIR No.7, dated 27.02.2016, under Sections 324, 323, 34 of IPC (Section 326 IPC added later on) registered at P.S. Tibber, District Police Gurdaspur, and all consequent proceedings arising therefrom, including setting aside of judgment of conviction and order of sentence dated 14.11.2022 (Annexure P-2), passed by the Judicial Magistrate Ist Class, Gurdaspur, on the basis of a compromise dated 12.09.2023 (Annexure P-3), as entered into *inter se* the petitioners and respondent No.2/complainant.

5. Learned counsel for the petitioners, submits during the pendency of appeal preferred by the present petitioners before the learned Sessions Court concerned, the matter has been compromised between the parties. The remaining sentence of the petitioners has been suspended by the learned Sessions Court concerned, vide order dated 02.12.2022.

6. Learned counsel has also relied upon a Division Bench judgment of this Court in **Sube Singh and another Vs. State of Haryana and another, 2013 (4) RCR (CrI.) 102**, wherein, on the basis of compromise, during pendency of an appeal against judgment of conviction, pending in the Court of Sessions, compounding of offence was allowed.

7. Upon an affirmative response from the learned counsel for respondent No.2 *qua* the compromise (Annexure P-3), this Court, through an order drawn on dated 16.01.2024, upon the instant petition, besides issuing notice, directed the parties to appear before the learned trial

Court/*Illaqa* Magistrate concerned, for getting their respective statements recorded *qua* authenticity of the compromise (Annexure P-3). Moreover, the learned trial Court/*Illaqa* Magistrate concerned was also directed to send a report in the above regard.

8. Consequent to the making of the directions (*supra*), the parties appeared before the learned Judicial Magistrate Ist Class, Gurdaspur, and got their respective statements recorded, thereby authenticating the compromise (Annexure P-3). Accordingly, in compliance of the directions (*supra*) of this Court, a report bearing No.62, dated 21.02.2024, has been received from the learned Judicial Magistrate Ist Class, Gurdaspur, wherein, a satisfaction has been recorded by the Magistrate concerned *qua* the compromise (*supra*), being drawn in a genuine and voluntary and without any pressure or coercion and out of free will of the parties.

9. I have heard counsel for the parties and gone through the case file.

10. A Co-ordinate Bench of this Court, in **CRM-M-25669-2020 (O&M)**, titled “**Abhishek Singh & others V/s State of Punjab & others**”, **Pronounced on: 07.04.2022**, while granting a similar relief, as craved in the instant petition, has observed as under:-

“9. The following aspects would be relevant to conclude this petition:-

a) The accused and the private respondents have amicably settled the matter between them in terms of the compromise deed and the statements recorded before the concerned

Court;

b) A perusal of the documents reveal that the settlement has not been secured through coercion, threats, social boycotts, bribes, or other dubious means;

c) The victim has willingly consented to the nullification of criminal proceedings;

d) There is no objection from the private respondents in case present FIR and consequent proceedings are quashed;

e) In the given facts, the occurrence does not affect public peace or tranquillity, moral turpitude or harm the social and moral fabric of the society or involve matters concerning public policy;

f) The rejection of compromise may also lead to ill will. The pendency of trial affects career and happiness;

g) There is nothing on the record to prima facie consider the accused as an unscrupulous, incorrigible, or professional offender;

h) The purpose of criminal jurisprudence is reformatory in nature and to work to bring peace to family, community, and society;

i) The exercise of the inherent power for quashing the conviction, sentence and all previous proceedings is justified to secure the ends of justice.”

11. In the light of the hereinabove recorded aspects and considering the fact that the offences, for which the petitioners/accused

have been charged, are not of grave in nature, as also in view of the law laid down in *Gian Singh Vs. State of Punjab and another, 2012 (4) RCR (Criminal) 543* and *Kulwinder Singh, others Vs. State of Punjab 2007(3) RCR (Criminal) 1052*, the present petition for quashing the FIR (supra) is hereby allowed.

12. Resultantly, FIR No.7, dated 27.02.2016, under Sections 324, 323, 34 of IPC (Section 326 IPC added later on) registered at P.S. Tibber, District Police Gurdaspur, is **quashed**, *qua* the petitioners, and judgment of conviction and order of sentence dated 14.11.2022 (Annexure P-2), passed by the Judicial Magistrate Ist Class, Gurdaspur, are hereby set aside, on the basis of the compromise dated 12.09.2023 (Annexure P-3), subject to the payment of costs of Rs.5,000/-, to be forthwith deposited with the District Legal Services Authority concerned, by the petitioners.

April 16, 2024
dharamvir

(KULDEEP TIWARI)
JUDGE

Whether speaking/reasoned.	:	Yes/No
Whether Reportable.	:	Yes/No