

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

Cr. MMO No. 51 of 2018.
Decided on: 29th March, 2018

Bandana Sood

.....Petitioner.

Versus

State of H.P. & Others

.....Respondents.

Coram

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.
Whether approved for reporting?¹No.

For the petitioners : Mr. Dushyant Dadwal, Advocate.

**For the Respondents : Mr. S.C. Sharma, Addl. A.G. with
Mr. Kunal Thakur, Dy. A.G. for
respondent No.1.**

**Mr. Subhash Chander, Advocate
for respondents No.2 & 3.**

Dharam Chand Chaudhary, J. (oral).

The petitioner herein is accused in FIR No.0143/2017 (Annexure P-1), registered against her at the instance of respondent No.2, Prakash Chand-complainant under Sections 279 and 337 IPC in Police Station, Jawalamukhi, District Kangra, H.P. The allegations against her are that while driving the car

¹ Whether reporters of Local Papers may be allowed to see the judgment? Yes.

on 29.12.2017 bearing No. HP 37D 8384, she hit respondent No.3 Amar Singh with the car and as a result thereof he received injuries on his person.

2. The investigation in this case is complete. Learned Additional Advocate General has placed on record the status report and as per the same the Challan in this case stands filed in the Court of learned Judicial Magistrate 1st Class, Court No.2, Dehra, District Kangra, H.P. on 28.2.2018. The same as such is at initial stage as charge has not yet been framed against the petitioner-accused.

3. The complainant and injured, who are present in person, have now compromised all disputes with the accused-petitioner and are no more interested to prosecute her any further in this case. Their joint statement and also that of the accused-petitioner to this effect have been recorded separately. The application is supported by the photocopies of their affidavits Annexure P-2 (Colly.).

4. It is seen that an offence punishable under Section 279 of the Indian Penal code is not compoundable under Section 320 of the Code of Criminal Procedure. The apex Court, however, in ***Gian Singh* versus *State of Punjab and another, (2012) 10 Supreme Court Cases 303*** has held that the High Court in exercise of inherent powers vested in it under Section 482 of the Code of Criminal Procedure may quash FIR/criminal proceedings in a case where the offence allegedly committed by the accused though is not compoundable, however, the victim and accused have settled the differences amicably. The powers vested in the Court, however, should be exercised sparingly and only in appropriate cases, having arisen out of civil, mercantile, commercial, financial, partnership or such other transactions of like nature including matrimonial or the case relating to dowry etc., in which the wrong basically is done to the victim. This

judgment further reveals that the compounding of offence in a case of serious nature like rape, dacoity and corruption etc., having serious impact in the society is not permissible.

5. The Punjab and Haryana High Court in **Karamvir Singh** versus **State of Punjab and another, Crl. Misc. No. M-1586 of 2013 (O&M)** decided on 13.9.2013 after placing reliance on Full Bench judgment of the same High Court in **Kulwinder Singh and others** versus **State of Punjab, 2007(3)RCR (Criminal) 1052** and also that of Apex Court in **GianSingh's** case supra has allowed the compounding of offence in a case punishable under Sections 279, 337 and 338 of the Indian Penal Code in the similar circumstances with the observation that since the parties have arrived at a compromise and decided to live in peace, no useful purpose would be served in allowing the proceedings to continue.

6. The Apex Court in ***Narinder Singh and others*** versus ***State of Punjab and another, (2014) 6 Supreme Court Cases 466*** has even quashed the FIR under Section 307 of the Indian Penal Code with the following observations:

“We have gone through the FIR as well which was recorded on the basis of statement of the complainant/victim. It gives an indication that the complainant was attacked allegedly by the accused persons because of some previous dispute between the parties, though nature of dispute etc. is not stated in detail. However, a very pertinent statement appears on record viz., ‘respectable persons have been trying for a compromise up till now, which could not be finalized’. This becomes an important aspect. It appears that there have been some disputes which led to the aforesaid purported attack by the accused on the complainant. In this context when we find that the elders of the village, including Sarpanch, intervened in the matter and the parties have not only buried their hatchet but have decided to live peacefully in future, this becomes an important

consideration. The evidence is yet to be led in the Court. It has not even started. In view of compromise between parties, there is a minimal chance of the witnesses coming forward in support of the prosecution case. Even though nature of injuries can still be established by producing the doctor as witness who conducted medical examination, it may become difficult to prove as to who caused these injuries. The chances of conviction, therefore, appear to be remote. It would, therefore, be unnecessary to drag these proceedings. We, taking all these factors into consideration cumulatively, are of the opinion that the compromise between the parties be accepted and the criminal proceedings arising out of FIR No.121 dated 14.7.2010 registered with Police Station LOPOKE, District Amritsar Rural be quashed. We order accordingly."

7. Be it stated that in a recent judgment titled **Mohar Singh** versus **State of Rajasthan, (2015) 11 Supreme Court Cases 226** the Apex Court though has refused to do so on the ground that the offence

punishable under Section 307 of the Indian Penal Code is not compoundable, however, reduced the sentence awarded against the accused. In **Mohar Singh's** case the Hon'ble Apex Court has refused to grant the permission to compound the offence against the accused because in that case the accused was convicted after holding full trial not only by the trial Court but also by the High Court and it is such factors appear to have weighed with the Supreme Court while declining the permission to compound the offence as was sought in that case.

8. Now coming to the case in hand, the complainant-respondent No.2 and the injured respondent No.3 are no more interested to prosecute the pending criminal case against the accused-petitioner any further. The accused-petitioner and respondents No.2 and 3, are present in person. Their statements have been recorded separately. The proceedings in the criminal case pending against the

accused-petitioner are presently at its initial stage because the challan has been filed only on 28.2.2018. In view of the complainant and the injured both have settled the matter with the accused-petitioner amicably; it is imperative that they are not going to support the prosecution case while in the witness box. Therefore, even if the trial is allowed to continue, the chances of conviction of the accused-petitioner will be bleak. On the other hand, the accused petitioner has all repentance for this accident. She has undertaken to drive the vehicle in future with all care and caution. No doubt, learned Additional Advocate General has opposed the prayer for quashing the FIR and consequential criminal proceedings against the accused-petitioner, however, there is no likelihood of her conviction. Therefore, no useful purpose is likely to be served by allowing the criminal proceedings against the accused-petitioner to continue and rather would amount to abuse of the process of law.

9. The petition as such is allowed. Consequently FIR No. 0143/17, registered against the accused-petitioner in Police Station, Jawalamukhi, District Kangra and also the consequential criminal proceedings pending disposal in the Court of learned Judicial Magistrate 1st Class, Court No.2, Dehra, District Kangra, is ordered to be quashed. The petition is accordingly disposed of.

An authenticated copy of this judgment be sent to learned trial Court for record/compliance.

March 29, 2018_(ps)

(Dharam Chand Chaudhary)
Judge.