

(2007) 04 P&H CK 0136

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous No. 58277-M of 2006

Baldev Singh and Others

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

Date of Decision: April 26, 2007

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 320
- Penal Code, 1860 (IPC) - Section 307, 34, 427, 435

Citation: (2007) 2 CivCC 730 : (2007) 3 RCR(Criminal) 731

Hon'ble Judges: Tej Pratap Singh Mann, J

Bench: Single Bench

Advocate: D.S. Pheruman, for the Appellant; Ravinder Kaur Nihalsinghwala, D.A.G., Punjab for Respondent No. 1 and Mr. Gur Ajay Pal Singh, Advocate, for the Respondent

Judgement

T.P.S. Mann, J.

The Petitioners were tried by Sub-Divisional Judicial Magistrate, Patti. Vide judgment and order dated 24.7.2003, they were convicted and sentenced under Sections 435/427/34 IPC. Against their conviction and sentence, the Petitioners filed an appeal which is now pending for hearing before the Court of Additional Sessions Judge, Amritsar. Meanwhile, the parties entered into a compromise, whereby they agreed to bury the hatchet for all times to come. The present petition was, accordingly, filed by the Petitioners for issuance of a direction to the lower Appellate Court to allow them to compound the offence.

2. Learned Counsel appearing for the Petitioners contended that as the dispute has been amicably settled and the matter compromised, a direction be issued to the lower appellate Court to allow them to compound the offences with the complainant. Reliance has been placed upon Mahesh Chand and Anr. v. State of Rajasthan, 1988 (1) RCR (Crl.) 498 (SC).

3. As the parties have already entered into a compromise, learned Counsel for Respondent No. 2 supported the contention of the learned Counsel for the Petitioners and prayed that the request of the Petitioners be granted.

4. The offence u/s 435 IPC cannot be lawfully compounded. In such a situation, this Court finds it beyond its powers to accede to the request of the Petitioners and Respondent No. 2.

5. In *Bankat v. State of Maharashtra*, 2005 (1) AC 199 : 2005 (1) RCR (Cri.) 306 (SC) the Hon'ble Supreme Court held that only the offence which are covered by table 1 or table 2 in Section 320 of the Code of Criminal Procedure can be compounded and rest of the offences punishable under the IPC could not be compounded. The said observation is as follows:

In our view, the submission of the learned Counsel for the Respondent requires to be accepted. For compounding of the offences punishable under the IPC, a complete scheme is provided u/s 320 of the Code. Sub-section (1) of Section 320 provides that the offences mentioned in the Table provided thereunder can be compounded by the persons mentioned in column 3 of the said Table. Further, Sub-section (2) provides that the offences mentioned in the Table could be compounded by the victim with the permission of the Court. As against this Sub-section (9) specifically provides that "no offence shall be compounded except as provided by this section." In view of the aforesaid legislative mandate, only the offences which are covered by Table 1 or Table 2 as stated above can be compounded and the rest of the offences punishable under the IPC could not be compounded.

6. In *Mahesh Chand's case* (supra), the Hon'ble Supreme Court after relying upon [Y. Suresh Babu Vs. State of A.P. and Another](#), directed the trial judge to accord permission to compound the offence u/s 307 IPC. Although, the said offence was not compoundable under law, the order was passed by treating it as a special case, in view of its peculiar circumstances as one of the accused was a lawyer practicing in the lower Court and there was a counter case arising out of the same transaction. The aforementioned decision in *Y. Suresh Babu's* and *Mahesh Chand's* cases (supra) were also considered in *Bankat's* (supra) and it was held that the two decisions could be treated as per incurium as the attention of the Court to Sub-section (9) of Section 320 Code of Criminal Procedure was not drawn.

7. In *Ram Lal v. State of Jammu and Kashmir*, 2000 (1) RCR (Cri.) 92 (SC), the apex Court did not allow the compounding for the offences which could be lawfully compounded u/s 320 Code of Criminal Procedure but held that in view of the fact that the parties have come to a settlement and the victims have no grievance, a lenient view could be taken in the matter of sentence.

8. In view of the above, no relief, as sought for by the Petitioners can be granted to them. The petition is, accordingly, disposed of by relegating the Petitioners to the

remedy of taking up the plea of compromise already arrived at between the parties, at the time of arguing before the lower appellate Court on the question of sentence during the final hearing of the appeal.