

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

1. CRM-M-10749-2015(O&M)
Date of Decision: December 8, 2015

Dharam Singh and others

.....Petitioners

Versus

State of Punjab and others

.....Respondents

2. CRM-M-32600-2015 (O&M)

Sukhwinder Kaur

.....Petitioner

Versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr.Anil Chawla Advocate
for the petitioners.

Mr.K.S.Pannu, DAG, Punjab.

Mr.M.K.Bhatnagar, Advocate
for respondent Nos.2 and 3.

.....

- 1. *Whether Reporters of local papers may be allowed to see the judgment ?***
- 2. *To be referred to the Reporters or not ?***
- 3. *Whether the judgment should be reported in the Digest?***

NARESH KUMAR SANGHI, J.(Oral)

Since both the aforementioned petitions have been

filed under Section 482, Cr.P.C., by the accused persons for quashing of FIR No.117, dated 16.06.2008, for the offences punishable under Sections 148, 323, 324 and 326 read with Section 149, IPC, registered at Police Station, Jandiala, District Amritsar, and all the consequential proceedings arising therefrom, on the basis of compromise, Annexure P3, therefore, the same are being decided together by the present common order.

Vide order dated 06.04.2015 passed in CRM-M-10749-2015 (Dharam Singh and others vs. State of Punjab and others), the affected parties were directed to appear before learned Area Judicial Magistrate/ trial Court for getting their respective statements recorded with regard to the compromise. The said Court was further directed to submit a report regarding the number of persons arrayed as accused; whether any accused was proclaimed offender; whether the compromise was genuine, voluntary and without any coercion or undue influence and that the settlement between the parties had any adverse effect upon any third party.

In compliance of the above, Gurvail Singh @ Gurmel Singh and Shamsher Singh @ Sher Singh, respondent Nos.2 and 3

respectively, as well as the petitioners of both the petitions except Harjit Singh (petitioner No.6 in CRM-M-10749-2015) did appear before the Court below and got recorded their respective statements with regard to the compromise.

Gurvail Singh @ Gurmel Singh (respondent No.2) suffered the following statement:-

“The present case has been registered on my statement against 11 accused persons, namely, Dharam Singh, Baljit Singh, Kulwinder Kaur, Mandeep Kaur, Kuljit Kaur, Harjit Singh, Karam Singh, Beero, Jaspal Singh @ Rachhpal Singh, Harpal Singh, and Kalwaljit Kaur. All of the accused named above are present in the Court except Harjit Singh who has gone out of station. Now I have compromised the matter with all above named accused persons with the intervention of respectable persons of the village. I have no objection if the FIR No.117 of 2008 and subsequent proceedings arising out of said FIR registered at Police Station Jandiala now Police Station Khalchian is quashed by the Hon’ble High Court. I do not want to take further action against accused persons. I have made this statement out of free will, without any threat or pressure. No accused is P.O. in the present case. Compromise with accused persons has been effected out of mine own sweet will and without any kind of pressure from any one. ”

Shamsher Singh @ Sher Singh (respondent No.3) has suffered the following statement:

“The present case has been registered on the statement of Gurvail Singh against 11 accused persons, namely, Dharam Singh, Baljit Singh, Kulwinder Kaur, Mandeep Kaur, Kuljit Kaur, Harjit Singh, Karam Singh, Beero, Jaspal Singh @ Rachhpal Singh, Harpal Singh, and Kalwaljit Kaur. All of the accused named above are present in the Court except Harjit Singh who has gone out of station. Now I have compromised the matter with all above named accused persons with the intervention of respectable persons of the village. I have no objection if the FIR No.117 of 2008 and subsequent proceedings arising out of said FIR registered at Police Station Jandiala now Police Station Khalchian is quashed by the Hon’ble High Court. I do not want to take further action against accused persons. I have made this statement out of free will, without any threat or pressure. No accused is P.O. in the present case. Compromise with accused persons has been effected out of mine own sweet will and without any kind of pressure from any one.”

The report received from learned Sub Divisional Judicial Magistrate, Baba Bakala Sahib, is as under:-

“After considering the statements of the parties, the undersigned is of the opinion that said compromise has been entered into in between the

petitioners/accused and complainant/respondents No.2 and 3 voluntarily, out of free will and without any pressure, coercion or undue influence and the same appears to be genuine one. As per version of respondent no.2/complainant Gurvail singh @ Gurmel Singh, there are total 11 accused arrayed in this case FIR No.117 of 2008 and no one is P.O. in this case. The copies of statements of the parties and documents are being sent herewith, for kind perusal of the Hon'ble High Court, as desired. Hence, this report as per the directions of the Hon'ble High Court."

Learned counsel for the State as well as the learned counsel representing respondent Nos.2 and 3 are *ad idem* that the present criminal litigation has arisen amongst co-villagers on account of a petty issue; both the private factions have resolved their issue and effected a compromise and that the injured Gurvail Singh @ Gurmel Singh and Shamsheer Singh @ Sher Singh did appear before the Court below and got recorded their respective statements with regard to compromise and, as such they have no objection if the impugned FIR and consequential proceedings arising therefrom are quashed.

Learned counsel for the petitioners submits that it is a case of version and cross-version; both the private factions had received injuries in the quarrel; during pendency of the

investigation the better sense has prevailed and they have resolved their dispute and effected a compromise and, as such, the pendency of the FIR and consequential proceedings arising therefrom would be a sheer abuse of the process of law. He further submits that despite the fact that the FIR was registered on 16.06.2008 and thereafter cancellation report was prepared by the police, the report under Section 173, Cr.P.C., has not been presented before the learned Area Judicial Magistrate. In support of his contention, learned counsel has placed reliance on **Gian Singh v. State of Punjab and another, 2012 (4) R.C.R. (Criminal) 543 (SC)**, and judgment of a 5-Judge Bench of this Court in the matter of **Kulwinder Singh and others v. State of Punjab and another, 2007 (3) RCR (Criminal) 1052**.

After hearing the learned counsel for the parties and going through the material available on record, this Court finds that few of the petitioners had also received injuries in the same incident for which the opposite private party is also being prosecuted. Due to intervention of the respectable and elderly people of the society, they have resolved their dispute and effected a compromise, Annexure P3, attached with both the petitions. Since Gurvail Singh @ Gurmel Singh and Shamsher

Singh @ Sher Singh, injured, have suffered their statements before the Court below and the said fact has been admitted by the learned counsel for the State as well as the learned counsel representing the injured persons, pendency of the impugned FIR and consequential proceedings arising therefrom would be a sheer abuse of the process of law and, as such, FIR No. 117, dated 16.06.2008, for the offences punishable under Sections 148, 323, 324 and 326 read with Section 149, IPC, registered at Police Station, Jandiala, District Amritsar, and all the consequential proceedings arising therefrom are hereby quashed.

December 08, 2015
meenu

(NARESH KUMAR SANGHI)
JUDGE