

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-14101 of 2014 (O&M)

Date of Decision: 7.5.2015

Harpal Singh and Others

... Petitioner(s)

Versus

State of Punjab and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Mr. Ashish Aggarwal, Advocate
for the petitioner(s).

Mr. Jasanpreet Singh, Assistant Advocate
General, Punjab for respondent No.1.

Mr. Manoj Kumar Sharma, Advocate
for respondents No.2 & 3.

Darshan Singh, J.

Criminal Misc. No. 37845 of 2014

This is an application for placing on record the documents (Annexures P3 to P6). Application is allowed as prayed for. Documents (Annexures P3 to P6) are taken on record.

Criminal Misc. No. M-14101 of 2014

1. The present petition has been filed by the petitioners under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for seeking quashing of FIR No. 19 dated 3.2.2013, registered under Sections 467, 468, 471 & 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station Gharinda, District Amritsar (Rural) and all the subsequent proceedings on the basis of the compromise deed dated 11.4.2014 (Annexure P2).

2. Vide order dated 25.4.2014 a Co-ordinate Bench of this Court has directed the parties to get their statements recorded before the trial Court. The trial Court was also directed to send its report with regard to the validity or otherwise of the compromise after recording the statements of the concerned parties.

3. In compliance of the aforesaid order, report has been received from the learned Chief Judicial Magistrate, Amritsar through the learned District & Sessions Judge, Amritsar along with the copies of the statements of the parties. The operative part of the report of the learned Chief Judicial Magistrate is reproduced as under:

“on 04.02.2015, the complainant Manjinder Singh & Yaadwinder Singh both Ss/o Lakha Singh, R/o Village Chhidan, P.S.Lopoke, Tehsil Ajnala, District Amritsar, who have got registered captioned FIR, against the petitioners, namely Harpal Singh S/o Narinder Singh, Balwinder Singh s/o Manna Singh, both r/o Village Kauke, Tehsil & District Amritsar, Dharminder Singh S/o Nishan Singh, Nishan Singh s/o Arjan Singh & Harjit Kaur w/o Nishan Singh, all r/o Village Muhawa, Tehsil and District Amritsar, have come present in this Court & stated that the entire matter has been settled with the petitioners & they have no objection if the said FIR against the aforesaid petitioners be quashed. The above said petitioners (except the petitioners namely Dharminder Singh and Nishan Singh), have also come present in this Court on 04.02.2015 and stated that the dispute between them has

been compromised while the petitioners namely Dharminder Singh and Nishan Singh have come present on 11.02.2015 & gave similar statement. It is further respectfully submitted as per the report sought from the Ahlmad of the Court of the undersigned, there are only above mentioned five accused, in the captioned FIR.

From the statements of the parties it transpires that parties have willfully settled their differences and reached at bonafide compromise without any pressure and the same seems to be genuine. Hence, the requisite report.”

4. Learned counsel for the petitioners contended that the parties have amicably resolved the dispute and the continuation of the proceedings will be an abuse of the process of the Court. The compromise, between the parties voluntarily and with their free will, should be given due weightage and the present proceedings should be quashed. To support his contentions, he relied upon the judgments rendered by the Hon'ble Apex Court in **Gian Singh v. State of Punjab & Another 2012(4) R.C.R. (Criminal) 543** and **Shiji alias Pappu & Others v. Radhika & Another 2012(1) R.C.R. (Criminal)9 (SC)** and also by Full Bench of this Court in **Kulwinder Singh & Others v. State of Punjab & Another 2007(3) R.C.R. (Criminal)1052**.

5. The factum regarding compromise between the parties has also not been disputed at bar by the learned State counsel. Learned counsel for respondent No.2 has also fairly conceded that in view of the compromise effected between the parties, the complainant/victim has no

objection if the impugned FIR and the consequential proceedings are quashed.

6. The petitioners have been indicted as accused for the offences punishable under Sections 467, 468, 471 & 120-B IPC on the allegations that complainant-Manjinder Singh and his brother Yadwinder Singh had entered into an agreement to purchase land measuring 81 kanals 8 marlas with petitioner No.1 Harpal Singh and petitioner No.2 Balwinder Singh on 21.12.2011 and the deal was struck at ₹ 25,25,000/- per acre. Both petitioners No.1 & 2 had received a sum of ₹ 55,00,000/- vide cheque bearing No. 004767 and a sum of ₹ 4,00,000/- vide cheque No. 006091 dated 21.12.2011. The date for execution of the sale deed was fixed as 15.1.2013. They had further received earnest money of ₹ 74,00,000/- in the presence of the witnesses. But at the time of execution of the sale deed, both of them stated that they had struck deal to purchase the land in dispute with petitioner No.3 Nishan Singh on 13.12.2011. At that time, petitioners No.3 to 5, namely Dharminder Singh son of Nishan Singh, Nishan Singh and his wife Harjit Kaur were also present. They stated that either they would execute the sale deed in favour of the complainant and his brother or through Nishan Singh, upon which Nishan Singh, his son Dharminder Singh and Harjit Kaur had assured that they would execute the sale deed in the name of any person as it would be stated by Harpal Singh and Balwinder Singh. In their presence, both Harpal Singh and Balwinder Singh received the earnest money. When the complainant requested Harpal Singh and Balwinder Singh to execute the sale deed, they kept on lingering the

matter and stated that the sale deed would be executed on 13.1.2013, which fell on Sunday. Therefore, the complainant remained present in the office of the Sub Registrar, Attari for execution of the sale deed in his favour on 14.1.2013 but both Harpal Singh and Balwinder Singh did not come present to do the needful. The complainant got marked his presence in the office of Sub Registrar and on the enquiry made by him, it was found that Nishan Singh, in connivance with his wife Harjit Kaur, his son Dharminder, Harpal Singh and Balwinder Singh committed fraud with him. Nishan Singh had executed three separate sale deeds in favour of Rajwinder Singh, Harjit Kaur and Dharambir Singh on 11.1.2013 and prior to that he had already executed a transfer deed in favour of his son Dharambir Singh on 13.2.2012, which was got registered in the office of Sub Registrar, Attari on same date. In this manner, Nishan Singh had already got transferred the land in dispute in favour of his son Dharminder Singh in connivance with the revenue officials and also got prepared the forged jamabandi and agreement. On the basis of the said forged documents, they further entered into an agreement and committed fraud with the complainant and his brother. The petitioners also threatened him that neither they would return the amount nor would execute the sale deed in favour of the complainant. The complainant requested for taking appropriate legal action against the erring petitioners.

7. From the statements of the complainant as well as of the petitioners recorded by the learned Chief Judicial Magistrate and his report, it comes out that both the parties have voluntarily and with their

free consent without any inducement, threat or promise, sorted out their dispute and have effected compromise. The photocopies of the compromise deeds have already been placed on record as Annexure P2.

8. Taking into consideration these facts, this Court is of the opinion that the ultimate chances of conviction of the petitioners are bleak. Therefore, the pendency of FIR and continuation of the proceedings would be a sheer abuse of the process of law.

9. Thus, in view of the factum of the compromise and the law laid down by the Hon'ble Apex Court and also the Full Bench of this Court in the cases referred to above, this petition is hereby allowed. FIR No. 19 dated 3.2.2013, registered under Sections 467, 468, 471 & 120-B IPC at Police Station Gharinda, District Amritsar (Rural) and all the consequent proceedings arising therefrom are hereby quashed. If the case has already been decided by the trial Court, then this order will be of no effect.

(Darshan Singh)
Judge

May 7, 2015

“DK”