

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M No.16536 of 2015

Date of decision: July 30, 2015.

Jaswant Singh @ Sony and others

... **Petitioners**

v.

State of Punjab & another

... **Respondents**

CORAM: **HON'BLE MR. JUSTICE DARSHAN SINGH**

Present: Shri A.S. Khinda, Advocate, for the petitioners.
Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1.
Shri Munish Gulati, Advocate for respondent No.2.

Darshan Singh, J. (Oral):

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. 25 dated 10.4.2012, registered under Sections 323, 324, 382, 148, 149, 325, 326 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Sadar Kapurthala, District Kapurthala (Annexure P-1) and all the subsequent proceedings on the basis of the compromise deed dated 16.05.2013 (Annexure P2).

2. Vide order dated 20.5.2015, this Court has directed the parties to get their statements recorded before the Illaqa Magistrate/trial court. The learned Illaqa Magistrate/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 Additional Chief Judicial Magistrate, Kapurthala through the learned District & Sessions Judge, Kapurthala along with the copies of the statements of the parties. The operative part of the report of the learned Sub Divisional Judicial Magistrate is reproduced as under:

“... The parties have made statements that they have entered into compromise voluntarily which is without any pressure, threat or coercion. It is thus clear from the statements of the parties that they have genuinely compromised the matter. It is further submitted that in the present case FIR five accused have been arrayed and none of them is proclaimed offender.”

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. As per the prosecution allegations, the accused-petitioners, who were armed differently, waylaid the complainant-respondent No.2 and inflicted injuries on him with their respective weapons, and when people gathered at the incident site on hearing his screams, they fled from the scene and while doing so, took away gold chain from his neck as also a mobile phone from the pocket of his pants.

7. From the statements of the complainant as well as of the petitioners recorded by the learned 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 photocopy of the compromise deed has 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. 25

dated 10.4.2012, registered under Sections 323, 324, 382, 148, 149, 325, 326 IPC at Police Station Sadar Kapurthala, District Kapurthala (Annexure P-1) 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.

July 30, 2015.
kadyan

[Darshan Singh]
Judge