

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-16841-2014

Date of Decision: October 12, 2015

Balvinder Kumar @ Eidhu

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Sandeep Arora, Advocate,
for the petitioner.

Mr. P.S. Paul, DAG, Punjab,
for respondent No. 1.

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| 1. | <i>Whether Reporters of local papers may be allowed to see the judgment?</i> | YES |
| 2. | <i>To be referred to the Reporters or not?</i> | YES |
| 3. | <i>Whether the judgment should be reported in the Digest?</i> | YES |

NARESH KUMAR SANGHI, J. (Oral)

The present petition under Section 482, Cr.P.C., has been filed for quashing of FIR No. 96, dated 20.9.2010, for the offences punishable under Sections 148, 323, 341 and 506 read with Section 149, IPC, registered at Police Station, Basti Bawa Khel, Jalandhar, and all the consequential proceedings arising therefrom, on the basis of compromise, qua the petitioner, Balvinder Kumar @ Eidhu, son of Rajinder Kumar, resident of House No. WN/273, Basti Danash Manda, Jalandhar.

Vide order dated 16.5.2014, this Court had directed the affected parties to appear before the learned Trial Court for getting their respective statements recorded with regard to the compromise and the said Court was directed to submit a detailed report in that regard.

In compliance of the above, the petitioner, Balwinder Kumar @ Eidhu and respondent No. 2/injured, Subhash Chander, did appear before learned Judicial Magistrate First Class, Jalandhar, and got recorded their respective statements with regard to the compromise. Copies of the statements of the affected parties and the report has been received from the learned Judicial Magistrate First Class, Jalandhar. Respondent No. 2/informant-injured, Subhash Chander, suffered the following statement:-

“Stated that I had got the above mentioned case registered against Balwinder Kumar alias Iddu son of Rajinder Pal, R/o H. No. 273, Basti Danishmanda, at present residing at 218, Mohalla Balmiki, Basti Danishmanda. I have brought my original Voter Card and produced today before the court and the copy of the same, self attested, is Ex. PX. I have compromised the matter with said Balwinder Kumar. This compromise has been done without any pressure and undue influence. I do not want to proceed against Balwinder Kumar in this case. I have no objection if this case is closed, dropped or quashed. The Hon’ble High Court has issued directions to appear

before this court for 27.05.2014, however since no certified copy of order was received from the concerned office of order dated 06.05.2014 passed by Hon'ble High Court, therefore I have appeared today before the court for recording my statement."

Perusal of the report received from learned Judicial Magistrate First Class, Jalandhar, reveals that the compromise so effected between the parties was voluntary and genuine one.

Learned counsel for the petitioner submits that as many as five persons have been nominated as accused in the present case. He further submits that better sense prevailed and respondent No. 2/informant-injured has sorted out his grievances with the petitioner and effected a compromise. He further submits that in compliance with the direction of this Court, the petitioner as well as respondent No. 2/informant-injured did appear before the learned Judicial Magistrate First Class, Jalandhar, and suffered their respective statements with regard to the compromise. The report received from the learned Court below is very categorical that the compromise so effected is voluntary and genuine one.

Learned counsel for the petitioner further submits that the offences punishable under Sections 323 and 341, IPC, are compoundable while the offences punishable under Sections 148 and 506, IPC, are non-compoundable, therefore, present petition in terms of Section 482, Cr.P.C., has been presented for quashing of

the impugned FIR and the consequential proceedings emanating therefrom. He further contends that the co-accused of the petitioner have not proposed to join hands with him (petitioner) in this petition, therefore, the impugned FIR and all the consequential proceedings arising therefrom be quashed qua him only. In support of his submissions, he has placed reliance on the judgments of this Court delivered in the cases of **Parambir Singh Gill v. Malkiat Kaur**, 2010 (1) R.C.R. (Criminal) 256; **Parveen Kumar v. State of Haryana and another** (CRM-M-20613-2012, decided on 10.10.2012); and **V. Subramaniam v. State of Haryana and others** (CRM-M-25842-2013, decided on 18.12.2013). Regarding quashing of the FIR relating to the non-compoundable offences, learned counsel for the petitioner has placed reliance on the ratio of the judgment delivered by Hon'ble the Supreme Court in the matter of **Gian Singh v. State of Punjab and another**, 2012 (4) R.C.R. (Criminal) 543, and a 5-Judge Bench judgment of this Court in the matter of **Kulwinder Singh and others v. State of Punjab and another**, 2007 (3) RCR (Criminal) 1052.

Learned counsel for the State on instructions from ASI Faquir Singh of Police Station, Basti Bawa Khel, Jalandhar, has also admitted the fact that respondent No. 2/injured, Subhash Chander, has sorted out his dispute and effected a compromise with the

petitioner. He has also gone through the copies of the statements and the report received from the learned Court below and has no objection if the impugned FIR and the consequential proceedings arising therefrom are quashed on the basis of the compromise, qua petitioner.

I have heard learned counsel for the parties and with their able assistance gone through the material available on record.

It is true that Sections 148 and 506, IPC, are not compoundable. However, respondent No. 2/informant-injured has sorted out his grievance and effected a compromise with the petitioner. The statements of respondent No. 2/informant-injured and that of the petitioner have already been recorded by the learned Judicial Magistrate First Class, Jalandhar. In his statement, respondent No. 2/informant-injured admitted the factum of the compromise and specifically stated that he had no objection if the impugned FIR and the consequential proceedings arising therefrom were quashed. Even the learned counsel for the State and the counsel representing the petitioner have also admitted the factum of the compromise. The report received from the learned Court below reveals that the compromise was voluntary and genuine one, therefore, pendency of the impugned FIR and the consequential proceedings emanating therefrom would be sheer

abuse of the process of law since the chances of ultimate conviction and sentence of the petitioner are bleak.

There is substance in the submission of the learned counsel for the petitioner when he submitted that the impugned FIR and the consequential proceedings arising therefrom can be quashed qua petitioner only. In this regard, he has rightly placed reliance on the judgments passed by this Court in the cases of **Parambir Singh Gill (supra)**, **Parveen Kumar (supra)** and **V. Subramaniam (supra)** wherein this Court had permitted partial quashing of the FIR and the proceedings emanating therefrom.

As a sequel to the above discussion and taking into consideration the ratio of the judgment delivered by Hon'ble the Supreme Court in the case of **Gian Singh (supra)** and a larger Bench judgment of this Court in the case of **Kulwinder Singh (supra)**, this petition is accepted and FIR No. 96, dated 20.9.2010, for the offences punishable under Sections 148, 323, 341 and 506 read with Section 149, IPC, registered at Police Station, Basti Bawa Khel, Jalandhar, and the consequential proceedings arising therefrom are hereby quashed qua the petitioner, Balvinder Kumar @ Eidhu, only.

October 12, 2015
Pkapoor

(NARESH KUMAR SANGHI)
JUDGE