

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

CRM-M No.25890 of 2014

Date of decision: July 20, 2015.

Varinder Singh @ Buny and another

... **Petitioners**

v.

State of Punjab & others

... **Respondents**

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

Present: Shri Peeush Gagneja, Advocate, for the petitioners.
Ms. Rimplejeet Kaur, Assistant Advocate General, Punjab
for respondent No.1.
Shri Harpal Singh, Advocate for respondents No.2 and 3.

Darshan Singh, J. (Oral):

The present petition has been filed by the petitioner under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for seeking quashing of FIR No. 33 dated 25.6.2013, registered under Sections 452, 323/34 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station City-II, Abohar, District Fazilka (Annexure P-1) and all the subsequent proceedings on the basis of the compromise deed dated 10.7.2014 (Annexure P2).

2. Vide order dated 13.3.2015, this Court has directed the parties to get their statements recorded before the trial court. The learned 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 Judicial Magistrate 1st Class, Abohar through the learned District & Sessions Judge, Ferozepur along with the copies of the statements of the parties. The operative part of the report of the learned Judicial Magistrate is reproduced as under:

“Complainant Jai Parkash son of Jaswant Rai, caste Sharma, resident of Back Side Kundan Palace, Abohar, Tehsil Abohar, District Fazilka has stated that FIR No.33 dated 25.06.2013 under Section 452/323/34 IPC of PS City-II Abohar was registered at his instance against the accused and now with the intervention of respectable a compromise has been effected between him and accused and compromise deed was scribed which as Ex.PA, on which he identified his signatures. So he does not want to proceed further in the present case and on the basis of compromise accused has filed a quashing petition bearing no. CRM-M of 25890 of 2014 and he has no objection if on the basis of compromise FIR is quashed. He has entered into the compromise with his own free will and without pressure and coercion. Whereas the other injured namely Bhupinder Kumar son of Jaswant Rai, caste Sharma, resident of Back Side Kundan Palace, Abohar, Tehsil Abohar, District Fazilka stated that FIR No.33 dated 25.06.2013 under Section 452/323/34 IPC of PS City-II Abohar was registered on the statement of his brother Jai Parkash against the accused and he also got injured in the occurrence mentioned in above said FIR and he also got recorded his statement against the accused and now with the intervention of respectable a compromise has been effected between him and accused and compromise deed was scribed which as Ex.PA, on which he identified his signatures. So he does not want to proceed further in the present case. He has no objection if the present FIR is quashed.

Statement of accused Varendra Singh @ Binny son of

Jugraj Singh, resident of village Azimgarh, Tehsil Abohar, District Fazilka and Satvir Singh @ Happy son of Kaur Singh resident of village Kundal, Tehsil Abohar, District Fazilka regarding compromise was also recorded wherein they have stated that they are agreed with the statement of complainant and on the basis of compromise deed Ex.PA, they have filed a quashing petition bearing No.CRM-M of 25890 of 2014 and copy of same as Ex.PX.

From the statements of Varendra Singh @ Binny son of Jugraj Singh, resident of village Azimgarh, Tehsil Abohar, District Fazilka and Satvir Singh @ Happy son of Kaur Singh resident of village Kundal, Tehsil Abohar, District Fazilka and from the statement of complainant Jai Parkash son of Jaswant Rai, caste Sharma, resident of Back Side Kundan Palace, Abohar, Tehsil Abohar, District Fazilka, Bhupinder Kumar son of Jaswant Rai, caste Sharma, resident of Back Side Kundan Palace, Abohar, Tehsil Abohar, District Fazilka, it makes out that the parties of the present case have compromised the matter with their free will and without any pressure or coercion. So this compromise between the parties appears to be genuine, volunteer and valid.”

4. Learned counsel for the petitioner 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, but she has opposed the prayer for quashing of the impugned FIR. Learned counsel for respondents No.2 and 3 fairly conceded that in view of the compromise effected between the parties, the complainants/victims has no objection if the impugned FIR and the consequential proceedings are quashed.

6. As per the prosecution allegations, the accused-petitioners herein, armed with 'sotti' along with two of their accomplices ransacked the house of the complainant and enquired from him whereabouts of his elder brother Bhupinder Kumar, injured, respondent No.2 so as to teach him a lesson, and having found both the brothers available at home, pounced upon them with their respective weapons, gave them beatings and left the spot thereafter. The cause of enmity between the accused-petitioners and Bhupinder Kumar, brother of the complainant, were not known to the complainant.

7. From the statements of the complainant as well as of the petitioners recorded by the learned Judicial Magistrate and her 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 petitioner 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. 33 dated 25.6.2013, registered under Sections 452, 323/34 IPC at Police Station City-II, Abohar, District Fazilka (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 20, 2015.
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[**Darshan Singh**]
Judge