

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-26487-2015

Date of Decision: December 21, 2015

Balwinder Singh Ahluwalia

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Gurbachan Singh Bhatia, Advocate,
for the petitioner.

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

Mr. Shubhjot Singh Chadha, Advocate,
for respondent No. 2.

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)

The present petition under Section 482, Cr.P.C., has been filed by Balwinder Singh Ahluwalia, son of Raghubir Singh, resident of Flat No. 4976, Pancham Society, Sector 68, Mohali, for

quashing of FIR No. 22, dated 1.4.2015 (Annexure P-1), for the offence punishable under Section 336, IPC, registered at Police Station, Phase-VIII, Mohali, and all the consequential proceedings arising therefrom, on the basis of compromise (Annexure P-2).

In compliance to the notice issued by this Court, Mr. P.S. Paul, Deputy Advocate General, Punjab, has appeared for respondent No. 1-State of Punjab, while Mr. Shubhjot Singh Chadha, Advocate, has appeared for respondent No.2/informant, Kasturi Lal.

Mr. Gurbachan Singh Bhatia, submits that the petitioner, Balwinder Singh Ahluwalia, owns a licensed gun; on the date of occurrence, he was not feeling well; there were so many pigeons in the building in which the petitioner was residing; due to the noise being made by the pigeons, the petitioner thought that by the noise of the bullet, the pigeons would fly away and, as such, he fired a bullet in the air from his licensed gun; and that respondent No. 2/informant, Kasturi Lal, took it otherwise and reported the matter to the police. He further submits that during pendency of the investigation, respondent No. 2 has sorted out his dispute and effected a compromise (Annexure P-2) with the petitioner. The police after

investigation filed the cancellation report before learned Chief Judicial Magistrate, Mohali, and the notice of the same was issued to respondent No. 2, Kasturi Lal. He (respondent No. 2) suffered his statement admitting the submission of cancellation report and also accorded his no objection in acceptance of the same. Despite that, learned Chief Judicial Magistrate, Mohali, had taken cognizance of the offence and proposed to summon the petitioner and, as such, the petitioner has approached this Court for quashing of the impugned FIR and consequential proceedings emanating therefrom, on the basis of the compromise. In support of his contentions, learned counsel has referred to the order dated 3.8.2015 (Annexure P-4), passed by learned Chief Judicial Magistrate, Mohali. He also referred to the recital where respondent No. 2, Kasturi Lal, has given his no objection in acceptance of the cancellation report.

Learned counsel for the State after obtaining instructions from ASI Rajwinder Singh of Police Station, Phase-8, Mohali, and going through the copy of the order dated 3.8.2015 (Annexure P-4), and the compromise deed (Annexure P-2), submits that he has no objection if the impugned FIR and all the consequential proceedings arising therefrom are quashed on the basis of the compromise. He further fairly concedes that finding

no merit in the allegations levelled in the impugned FIR, cancellation report was submitted by the investigating agency.

Learned counsel representing respondent No. 2/informant, Kasturi Lal, has also fairly admitted the factum of the compromise and has no objection if the impugned FIR and all the consequential proceedings arising therefrom are quashed.

After hearing learned counsel for the parties, this Court finds that the offence alleged to have been committed by the petitioner was personal in nature. No one had received injury in the incident explained in the impugned FIR. Respondent No. 2/informant, Kasturi Lal, has resolved his dispute with the petitioner and effected a compromise (Annexure P-2). Learned counsel for the State and learned counsel representing respondent No. 2, have also no objection in termination of the present criminal litigation and, as such, pendency of the same would be sheer abuse of the process of law.

As a sequel to the above discussion, and taking into consideration the ratio of judgment of Hon'ble the Supreme Court delivered in the case of **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, this petition is accepted and FIR No. 22, dated 1.4.2015 (Annexure P-1), for the offence punishable under Section 336, IPC, registered at Police Station, Phase-VIII, Mohali, and all the consequential proceedings arising therefrom are hereby quashed.

(NARESH KUMAR SANGHI)
JUDGE

December 21, 2015
Pkapoor