

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-29072-2014 (O&M)

Date of Decision: January 9, 2015

Harwinder Singh @ Binder and others

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Premjit Singh Dhaliwal, Advocate,
for Mr. Raj Kumar Gupta, Advocate,
for the petitioners.

Mr. K.S. Pannu, DAG, Punjab,
for respondent No. 1.

NARESH KUMAR SANGHI, J. (Oral)

1. The present petition under Section 482, Cr.P.C., has been filed by five petitioners, namely, Harwinder Singh @ Binder, Major Singh, Charan Singh, Mansa Singh and Harpreet Singh, for quashing of FIR No. 72, dated 14.10.2010, under Sections 148, 323 and 336 read with Section 149, IPC, and Sections 25 and 27 of the Arms Act, registered at Police Station, Ajitwal, District Moga, and all the consequential proceedings arising therefrom, on the basis of the compromise.

2. Vide order dated 21.11.2014, the affected parties were directed to appear before the learned Trial Court for

getting their respective statements recorded with regard to the compromise. The said Court was also directed to send a report about the genuineness of the compromise to this Court on or before the adjourned date.

3. In compliance thereof, petitioner Nos. 1, 3, 4 and 5 as well as respondent No. 2/complainant, Manjeet Kaur, did appear before learned Judicial Magistrate Ist Class, Moga, and got recorded their statements with regard to the compromise. Petitioner No. 2, Major Singh, did not turn up for recording of his statement as he was stated to be out of station. The complainant/respondent No. 2, Manjeet Kaur, suffered the following statement:-

“ I state that I am respondent in the petition pending in Hon’ble Punjab and Haryana High Court bearing no. CRM-M-29072 of 2014 titled as ‘Harvinder Singh & others Vs. State of Punjab and others.’ I have entered into a compromise with all the petitioners, in the petition out of my own volition. I am making this statement in the court voluntarily, free from any duress or inducement. I own up the terms of the compromise in entirety. Petitioner Major Singh has not appeared in the court today. I request that the proceedings against the petitioners may be quashed. ”

4. Petitioner Nos. 1, 3, 4 and 5 suffered the following

joint statement:

“ We, jointly state that we alongwith Major Singh are petitioners in the petition pending in Hon’ble Punjab and Haryana High Court bearing no. CRM-M-29072 of 2014 titled as ‘Harwinder Singh & others Vs. State of Punjab and others’. We are accused in FIR No. 72, dated 14.10.2010 U/s 336, 323, 148 read with Section 149 of IPC and Sections 25 and 27 of Arms Act, P.S. Ajitwal and have entered into a compromise with the respondent Manjit Kaur out of our own volition. We are making this statement in the court voluntarily, free from any duress or inducement. We own up the terms of the compromise in entirety. One of the petitioner Major Singh is not present in the court and has statedly gone out of station. We request that the proceedings against us may be quashed.”

5. The report received from learned Judicial Magistrate Ist Class, Moga, reads as under:-

“ In the above noted criminal petition, in furtherance to order dated 21.11.2014 passed in CRM-M No. 29072 of 2014, it is humbly submitted that on 23.12.2014, petitioners no. 1, 3, 4 and 5 as well as respondent had appeared in the court along with their counsel. Joint statements of the petitioners no. 1, 3 ,4 and 5 as well as that of respondent were recorded. Through the same, the parties stated in unison that they

had voluntarily entered into a compromise and that they were making statement in the court voluntarily, free from any duress or inducement. However, it is clarified that petitioner Major Singh son of Hazura Singh r/o village Nathuwala Jadid Tehsil and District Moga, Punjab, did not appear in the court for the purpose of getting his statement recorded.

From the statements of the parties, it is concluded that the compromise so effected between the parties is genuine and voluntary in nature. Hence the report.”

6. Learned counsel for the petitioners submits that originally six persons were put to trial, however, during trial the co-accused of the petitioners, namely, Sarabjit Singh, had expired. He further submits that at the time of framing of the charges, the petitioners were not charged under the Arms Act and, as such, the charges against them were framed for the offences punishable under Sections 148, 323 and 336 read with Section 34, IPC, only. He further contends that due to intervention of the respectable and elderly people of the society both the private factions have resolved all their disputes and effected a compromise. Petitioner Nos. 1, 3, 4 and 5 as well as the complainant/respondent No. 2 did appear before the learned Court below and got recorded their respective statements with regard to the compromise. He further submits

that pendency of the impugned FIR and all the consequential proceedings emanating therefrom would be sheer abuse of the process of law since the chances of ultimate conviction and sentence of the petitioners are bleak.

7. Learned counsel for the State on instructions from HC Varinder Kumar of Police Station, Ajitwal, District Moga, admits the execution of the compromise by the affected parties. He further submits that he has no objection if the impugned FIR and all the consequential proceedings are quashed on the basis of the compromise.

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

9. As per the prosecution version, the complainant/respondent No. 2, Manjeet Kaur, was thickly related with the petitioners. She was residing at her paternal house. On account of trivial issues the incident had taken place in which the complainant/respondent No. 2 received simple injuries attracting the mischief of Section 323, IPC, only. Due to intervention of the respectable and elderly people of the society, both the private factions have resolved all their disputes and effected a compromise. Learned counsel for the State has

also admitted the said fact. The report received from the learned Court below also supports the submissions made by learned counsel for the parties. This Court is also of the considered view that pendency of the present criminal proceedings would be sheer abuse of the process of law since the chances of ultimate conviction and sentence of the petitioners are bleak. One of the accused has already died.

10. Keeping in view totality of the facts and circumstances of the case and taking into consideration the ratio of the judgment of Hon'ble the Supreme Court delivered in the matter of **Gian Singh v. State of Punjab and another, 2012 (4) R.C.R. (Criminal) 543**, and the 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. 72, dated 14.10.2010, under Sections 148, 323 and 336 read with Section 149, IPC, and Sections 25 and 27 of the Arms Act, registered at Police Station, Ajitwal, District Moga, and all the consequential proceedings arising therefrom are hereby quashed.

(NARESH KUMAR SANGHI)
JUDGE

January 9, 2015
Pkapoor