

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-30761-2014

Date of Decision: December 7, 2015

Gaurav Jain

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Vivek Salathia, Advocate,
for the petitioner.

Mr. P.S. Paul, DAG, Punjab.

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)

Prayer in this petition, filed under Section 482, Cr.P.C., is for quashing of FIR No. 45, dated 23.04.2013, for the offences punishable under Section 420, IPC, and Section 66 of the Punjab Police Act, 2007, registered at Police Station, Division No. 8, Ludhiana, and all the consequential proceedings arising therefrom.

Initially the present petition was filed for quashing the FIR and consequential proceedings on merits, but during pendency better sense prevailed and both the private factions

effected a compromise (Annexure P-4). On the basis of the said compromise, this Court passed the following order on 9.10.2015:-

“ Since the compromise deed has been produced on record, therefore, the affected parties are directed to appear before learned Trial Court on 21.10.2015 for getting their respective statements recorded with regard to the compromise. After recording the statements, the learned Trial Court shall send the copies of the statements along with its detailed report in this regard to this Court on or before the adjourned date.

Adjourned to 07.12.2015.”

In compliance of above, the petitioner, Gaurav Jain, as well as respondent No. 2/informant, Sonu Jain, did appear before learned Judicial Magistrate First Class, Ludhiana, and got recorded their respective statements with regard to compromise.

Respondent No. 2/informant/aggrieved person, Sonu Jain, suffered the following statement:-

“ Stated that I have heard the statement of Gaurav Jain and the same is correct. Compromise has already been effected with the Gaurav Jain and compromise was reduced into writing and the same is Ex. P1. Gaurav Jain has already filed one CRM No. 30761 of 2014 before the Hon'ble Punjab and Haryana High Court, Chandigarh and Hon'ble Court has directed vide order dated 09.10.2015 to appear before the trial Court on

21.10.2015 for getting their statements recorded with regard to compromise. As per compromise, I have already received Rs. 70,000/- from the accused Gaurav Jain and remaining amount of Rs. 2 lacs cash has been received by me from Gaurav Jain today in the Court. Now, nothing is due against each other. I have no objection if the present FIR and the other proceedings arising out of this FIR be quashed in view of the compromise Ex. P1. The present statement is given by me without any pressure, coercion and undue influence. I have brought my original Identity Proof i.e. my DL, copy of the same is mark A.”

The petitioner, Gaurav Jain, also suffered the statement admitting the factum of the compromise.

The operative part of the report received from learned Court below is as under:-

“The compromise appears to be without any threat, coercion, undue influence and with their own sweet will without any pressure from any one. By this compromise there will a end of all litigations pending between the parties and they will live in peace and their own sweet will without any pressure from any one. By this compromise there will a end of all litigations pending between the parties and they will live in peace and harmony being a good citizen.”

Learned counsel for the petitioner submits that on account of money/business transaction, the present criminal litigation has arisen between the private parties. Due to

intervention of respectable and elderly people of the society, the dispute has been resolved. At present, there remains no dispute amongst the private parties. He further submits that the offences alleged to have been committed by the petitioner were personal in nature. He further submits that in view of the compromise so effected between the private parties, pendency of the impugned FIR and consequential proceedings emanating therefrom would be sheer abuse of the process of law. In support of his contention, learned counsel has placed reliance on the judgments of Hon'ble the Supreme Court delivered in the cases of **Madan Mohan Abbot v. State of Punjab**, (2008) 4 SCC 582, **Gian Singh v. State of Punjab and another**, 2012 (4) R.C.R. (Criminal) 543 (SC), 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.

Learned counsel for the State after going through the statements and the report received from learned Judicial Magistrate First Class, Ludhiana, very fairly admits that the private parties have resolved their dispute and effected a compromise. He further fairly admits that the allegations levelled in the FIR would disclose that the offences alleged to have been committed by the petitioner were personal in nature. 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.

After hearing learned counsel for the parties and going through the material available on record, this Court also finds that the allegations levelled by respondent No. 2 were with regard to money/business transactions. Both the private parties have resolved their dispute and effected a compromise and, as such, there remains no dispute between them.

There appears to be substance in the submission of learned counsel for the petitioner that pendency of the present criminal litigation would be abuse of process of law since the chances of conviction of the petitioner are bleak in view of the compromise so effected between the private parties.

In the matter of **Madan Mohan Abbot (supra)**, Hon'ble the Supreme Court has held as under:-

"We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law."

In the matters of **Gian Singh (supra)** and **Kulwinder Singh (supra)**, it was ruled that in a petition under Section 482, Cr.P.C., even the non-compoundable offences can be permitted to be compounded and criminal proceedings may terminate.

The report alongwith statements of the affected parties received from learned Court below would reveal that respondent No. 2/informant/aggrieved person has genuinely effected a compromise with the petitioner and he has no objection if the impugned FIR and consequential proceedings are quashed.

Keeping in view totality of the facts and circumstances of the case and taking into consideration the ratio of the judgments in the cases of **Madan Mohan Abbot (supra)**, **Gian Singh (supra)** and **Kulwinder Singh (supra)**, this petition is accepted and FIR No. 45, dated 23.04.2013, for the offences punishable under Section 420, IPC, and Section 66 of the Punjab Police Act, 2007, registered at Police Station, Division No. 8, Ludhiana, and all the consequential proceedings arising therefrom are hereby quashed.

December 7, 2015
Pkapoor

(NARESH KUMAR SANGHI)
JUDGE