

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

CRM-M No.36708 of 2013

Date of decision: July 23, 2015.

Kesar Singh and others

... **Petitioners**

v.

State of Punjab & others

... **Respondents**

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

Present: Shri Anil Kumar Garg, Advocate, for the petitioners.
Shri Jashanpreet Singh, Assistant Advocate General, Punjab
for respondent No.1.
Shri J.S. Uppal, Advocate for respondents No.2 to 4.

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. 425 dated 8.12.2008, registered under Sections 323, 324, 325, 148, 149, 201 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) at Police Station Kharar, District SAS Nagar (Annexure P-1) and all the subsequent proceedings on the basis of the compromise deed dated 23.10.2013 (Annexure P2).

2. Vide order dated 9.12.2014, a Coordinate Bench of 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, Kharar through the learned District & Sessions Judge, SAS Nagar 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:

“Statements of complainant/respondent Gurcharan Singh and accused/petitioners Kesar Singh, Sukhwinder Singh, Kuldeep Singh, Darshan Singh Jaswinder Singh have been recorded on 12.1.2015. (Statement of accused/petitioner Jaswinder Singh was recorded again separately on 4.5.2015). Complainant Gurcharan Singh has suffered a statement that he has effected the compromise with accused persons on 23.10.2013. Compromise is Ex.C1. As per compromise he has no objection for quashing of FIR No.425 dated 8.12.2008.

In view of the aforesaid statements of the petitioners/accused and respondent/complainant of the case, the compromise effected between the parties appears to be genuine and correct one. No other case is pending in between the parties in the court of undersigned. No P.O. proceedings is pending against any party in the present case. ...”

4. Learned counsel for the petitioners 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. Learned counsel for respondents No.2 to 4 has also 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 are alleged to have attacked the complainant and two others, who came to his aid, with dangs and gandasis over a petty issue, viz., allegedly using the path belonging to one Gurmeet Singh for reaching his house.

7. From the statements of the complainant as well as of the petitioners recorded by the learned Judicial Magistrate and his 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 petitioners 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. 425 dated 8.12.2008, registered under Sections 323, 324, 325, 148, 149, 201 IPC at Police Station Kharar, District SAS Nagar (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 23, 2015.
kadyan

[Darshan Singh]
Judge