

In the High Court of Punjab and Haryana, at Chandigarh

Criminal Misc. No. M-36458 of 2014

Date of Decision: 30.3.2015

Baldev Singh and Another

... Petitioner(s)

Versus

State of Punjab and Another

... Respondent(s)

CORAM: Hon'ble Mr. Justice Darshan Singh.

Present: Ms. Harveen Kaur, Advocate
for the petitioner(s).

Mr. Jasanpreet Singh, Assistant Advocate
General, Punjab for respondent No.1.

Mr. Varun Sharma, Advocate
for Mr. Gauravjit Singh, Advocate
for respondent kNo.2.

Darshan Singh, J.

1. The present petition has been filed by the petitioner/accused- Baldev Singh & Ajaib Singh alias Sukhdev Singh under Section 482 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C.") for quashing of FIR No. 91 dated 28.3.2007, registered under Sections 419, 420, 467, 468, 471 & 120-B of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") at Police Station Jagraon, District Ludhiana and all the subsequent proceedings on the basis of the compromise (Annexure P2).

2. Vide order dated 19.12.2014, this Court has directed the parties to get their statements recorded before the trial Court. The 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 Ist Class, Jagraon through the learned District & Sessions Judge, Ludhiana along with the copy of the statements of the parties. The report of the learned Judicial Magistrate is reproduced as under:

“Most humbly, it is submitted that as per orders dated 19.12.2014, passed by Hon'ble High Court of Punjab & Haryana at Chandigarh, in above noted case, statement of complainant Avtar Singh son of Late Gurbachan Singh, resident of village Lakha, Tehsil, Jagraon, District Ludhiana has been recorded in which he has submitted that he has compromised the matter with both the accused with his free consent and without any pressure. The accused 1) Baldev Singh Nambardar son of Sanghol Singh, 2) Ajaib Singh @ Sukhdev Singh son of Karnail Singh, both residents of village Lakha, Tehsil Jagraon, Distt. Ludhiana also got recorded their separate statements i this regard. From the statements of parties, it appears that the compromise arrived between them is genuine, voluntary and without any coercion or undue influence & the statements of complainant and accused in original are enclosed herewith. It is further submitted that as directed by the Hon'ble High Court record was perused and it reveals that there are three persons arrayed as accused in the FIR, but the police has presented the challan only against above said two accused persons and none of the accused in the present case has been declared as PO. Moreover from the perusal of compromise as well as judicial record it seems that the compromise effected between the parties has no adverse affect on the third party.”

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 respondent No.2 has also fairly conceded that in view of the compromise effected between the parties, the complainant/victim has no objection if the impugned FIR and the consequential proceedings are quashed.

6. The petitioners have been indicted as accused for the offences punishable under Sections 419, 420, 467, 468, 471 & 120-B IPC on the allegations that late Gurbachan Singh, father of the complainant/respondent No.2, who was the resident of Australia, had land measuring about 3½ acres in his ancestral village Lakha. In the year 1995, he died and on the basis of registered Will dated 28.12.1999, mutation of inheritance was got sanctioned in favour of one Sandeep Singh in connivance with the petitioners. On coming to know about this fraud, the complainant lodged a complaint with the police on the basis

of which FIR (Anneuxre P1) was registered.

7. From the statement 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 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. 91 dated 28.3.2007, registered under Sections 419, 420 467, 468, 471 & 120-B IPC at Police Station Jagraon, District Ludhiana and all the consequent proceedings arising therefrom are hereby quashed.

(Darshan Singh)
Judge

March 30, 2015

“DK”