

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRM-M-37551-2015 (O&M)

Date of decision: December 23, 2015

Amrik Singh and others

...Petitioners

Versus

State of Punjab & another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Ashish Pannu, Advocate for the petitioners.
Mr. Shilesh Gupta, Addl. Advocate General, Punjab.
Mr. Kuldeep Sheoran, Advocate for respondent No.2.

Rajan Gupta, J.

This is a petition under Section 482 Cr.P.C. for quashing of FIR No.57 dated 06.08.2015, registered against the petitioners under sections 353, 186, 294, 323, 506 read with Section 34 IPC at Police Station Kheri Gandian, District Patiala, on the basis of compromise.

FIR was lodged by Head Constable Daljit Singh, Police Station Kheri Gandian, District Patiala stating that on 5.8.2015, a complaint of Harbans Singh against petitioners and some other persons, was received by him from the Station House Officer for conducting investigation. Both parties were called in the police station. At about 2.30 P.M., during investigation, petitioners alongwith 3-4 other persons got aggressive, on which he tried to pacify them, but they were bent upon killing. When complainant tried to arrest them, petitioner Amrik Singh caught him from color of his uniform-shirt and other accused started abusing and threatened to kill him as well as the complainant party. The

petitioners tore his uniform and obstructed him in discharge of his official duty. Pursuant to the FIR, police registered a case against the accused. Petitioners claim that after registration of FIR, a compromise has been effected between them and the complainant i.e. Head Constable Daljit Singh. A copy thereof has been annexed alongwith the petition as Annexure P-2. It has been stated therein that both parties had entered into a compromise with intervention of common friends and respectables and there being no ill-feeling or grudge between the parties, FIR may be quashed.

Learned counsel for the petitioners has emphatically submitted that matter having been amicably resolved between the parties, no dispute survives. He has placed reliance on judgment in ***Kulwinder Singh and others Vs. State of Punjab, 2007(3) RCR (Crl.) 1052.***

Learned counsel for respondent No.2 has also appeared and admitted the factum of compromise.

I have heard learned counsel for the parties and considered the matter.

In my considered view, FIR in question cannot be quashed on the basis of compromise. Nature of allegations show that petitioners assaulted the complainant, who was posted as Head Constable in the police station itself and had torn his uniform when he was conducting investigation on the direction of the Station House Officer pursuant to a complaint lodged against them. They also threatened to kill the investigating officer as well as complainant. Instant dispute is not personal in nature. Petitioners committed an offence against the State.

There can be no question of compromise between accused and officials of the State. For this reason, FIR was lodged by the Head Constable and the investigating agency registered a case. It is inexplicable how Head Constable entered into a compromise on behalf of the State. There is nothing on record to show that he was authorised by the police department to enter into a compromise with the petitioners. Even otherwise, such a compromise would be of no avail in view of nature of allegations. The Head Constable while making complaint to the police was merely acting on behalf of the police department. He would, thus, have no authority to enter into compromise with the accused thereafter. In my considered view after public servant lodges an FIR regarding the assault raised upon him while he was performing his official duty, he loses the locus standi to enter into compromise with the accused. Judgment in *Kulwinder Singh's case (supra)* is not attracted to cases of this nature. Under the circumstances, there is no ground for quashing of FIR. The petition is hereby dismissed.

Senior Superintendent of Police, Patiala is directed to examine whether conduct of respondent No.2 is in accordance with law; whether he sought permission of the competent authority before entering into compromise with the accused and in the absence thereof whether appropriate departmental action needs to be initiated against respondent No.2.

(RAJAN GUPTA)
JUDGE

December 23, 2015
'Rajpal'

Whether to be referred to reporter? Yes / No