

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**Crl.Misc.No.M-42924 of 2013
Date of decision : 16.02.2015**

Sukhjinder Singh

.....Petitioner

Vs.

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE NARESH KUMAR SANGHI

**Present:- Mr.Joginder Pal Ratra, Advocate
for the petitioner.**

Mr.K.S.Pannu, DAG Punjab.

None for respondents No.2.

NARESH KUMAR SANGHI, J. (Oral)

Prayer in the instant petition, filed under Section 482 Cr.P.C., is for quashing of FIR No.140 dated 14.10.2007 (Annexure P-1), for the offences punishable under Sections 427 and 435 read with Section 34, IPC, registered at Police Station, Julkan, District Patiala (Punjab) and all the consequential proceedings arising therefrom on the basis of compromise, qua the petitioner.

Vide order dated 05.08.2014, this Court had directed the affected parties to appear before learned Principal Magistrate, Juvenile Justice Board, Patiala, for getting their respective statements

recorded with regard to compromise. The said Court was also directed to send its report in that regard along with copies of the statements of parties.

In compliance of the above, respondent No.2-Informant, Mohinder Singh, as well as the petitioner did appear before the Court below and got recorded their respective statements with regard to compromise. The copies of the said statements along with the report from learned Principal Magistrate, Juvenile Justice Board, Patiala, have been received. Respondent No.2-Informant, Mohinder Singh, has suffered the following statement:-

“I got registered case FIR No.140 dated 14.10.2007 under Section 435/427/34 IPC in PS Julkhan against Balwinder Singh, Surinder Singh, Kulwant Singh sons of Chanan Singh, Sukhjinder Singh s/o Balwinder Singh r/o village Bhasmara. With the intervention of respectable from the village compromise dated 02.06.2014 and dated 04.07.2013 was effected between me and the abovemention persons. In view of the abovementioned compromise, Sukhjinder Singh filed petition before Hon'ble Punjab and Haryana High Court vide CRM-M-42924 of 2013 for quashing of the FIR abovemention and all the subsequent proceedings thereto wherein my counsel Aman Mathur put appearance on behalf of me vide order dated 05.08.2014. I have no objection if the FIR mentioned above is quashed on the basis of compromise abovemention alongwith all subsequent proceedings thereto. This compromise has been effected

between me and the abovemention person without any pressure, threat or coercion. However, it was effected with the free consent and will of the party.

Sukhjinder Singh-petitioner suffered the following statement:

“I have read over the statement of Mohinder Singh which is true and correct. It is requested that the FIR No.140 dated 14.10.2007 under Section 435/427/34 IPC in PS Julkhan may kindly be quashed and report in compliance of the order dated 5.08.2014 may kindly be sent to Hon'ble Punjab and Haryana High Court in CRM-M-42924 of 2013 which is now pending for 08.01.2015.”

The operative part of the report received from learned Principal Magistrate, Juvenile Justice Board, Patiala, is as under :

“The compromise has been effected with the complainant in sound disposing mind without force or coercion. From the statement of the complainant as well as juvenile conflict with law, this Court is satisfied that the compromise effected between the parties is genuine.”

Learned counsel for the petitioner submits that initially four persons were tried and learned Judicial Magistrate Ist Class, Patiala, held them guilty for having committed the offences punishable under Sections 427 and 435 read with Section 34 IPC and vide judgment of conviction and the order of sentence dated 22.03.2013 different sentences were awarded. Against the said judgment of conviction and the order of sentence, an appeal was preferred before the Court of Session. During the pendency of the

said appeal, the petitioner moved an application to declaring him juvenile and the same was accepted and, as such, the judgment of conviction and the order of sentence qua the petitioner was set aside and the matter was remitted to the Principal Magistrate, Juvenile Justice Board, Patiala. He further submits that during the pendency of the appeal, the petitioner and his co-convicts had filed a petition before this Court for quashing of the impugned FIR and subsequent proceedings emanating therefrom on the basis of compromise. At that time the petitioner and his co-convicts suffered the conviction and, as such, the matter was withdrawn with permission to take all pleas before the Court below. Now the petitioner is not a convict since his conviction and sentence have already been set aside and he is facing inquiry before the learned Principal Magistrate, Juvenile Justice Board, Patiala, and as such, the present petition has been filed in view of change of circumstances.

He further contends that respondent No.2- informant did appear before the learned Principal Magistrate, Juvenile Justice Board, Patiala, and suffered the statement admitting the factum of compromise and, as such, the pendency of the proceedings before the learned Principal Magistrate, Juvenile Justice Board, Patiala, would be a sheer abuse of the process of law since chances of conviction and sentence of the petitioner are bleak. In support of

his contention, he has placed reliance on the judgment of Hon'ble the Supreme Court in the case of Gian Singh Vs. State of Punjab & another, 2012(4) RCR(Criminal) 543 and a five Judge Bench judgment of this Court in the matter of Kulwinder Singh and others Vs. State of Punjab and another, 2007(3) RCR (Criminal)1052.

Learned counsel for the State on instructions from Head Constable Jaswant Singh of Police Station, Julkhan, District Patiala very fairly concedes that respondent No.2-informant has sorted out his dispute and effected the compromise. He fairly concedes that during the pendency of appeal before the Court of Session, the petitioner was declared to be a juvenile and, as such, his conviction and sentence passed by learned Judicial Magistrate 1st Class, Patiala, was set aside and the case was remitted to the Principal Magistrate, Juvenile Justice Board, Patiala, for inquiry in accordance with law in which police has yet to file chargesheet.

After hearing learned counsel for the parties and going through the statements suffered by both the private factions, as reproduced hereinabove, and the report received from learned Principal Magistrate, Juvenile Justice Board, Patiala, and taking into consideration the ratio of judgment delivered by Hon'ble the Supreme Court in the matter of Gian Singh's case (supra) and Kulwinder Singh's case (supra) by larger Bench of this Court, the

present petition is allowed. The impugned FIR No.140, dated 14.10.2007 (Annexure P-1), for the offences punishable under Sections 427 and 435 read with Section 34 IPC, registered at Police Station Julkan, District Patiala (Punjab) and all the consequential proceedings emanating therefrom are hereby quashed qua the petitioner, Sukhjinder Singh.

16.02.2015
anil

(NARESH KUMAR SANGHI)
JUDGE