

IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

CRM-M-11282-2015 (O&M)

Date of Decision: February 1, 2016

Rajnish Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Mr. Krishan Singh Dadwal, Advocate,
for the petitioner.

Mr. P.S. Paul, DAG, Punjab,
for respondent No . 1.

Mr. Naresh Kumar, Advocate,
for Ms. Shivangi, Advocate,
for respondent No. 2.

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)

The present petition under Section 482, Cr.P.C., has been filed by Rajnish Kumar son of Sukhvir Singh, permanent resident of Mohalla Janauri, Police Station, Haryana, District

Hoshiarpur, who is presently residing at B-210, 6^{eme} Rue Limete Industrial Area, Kinshasa, The Democratic Republic of Congo. The present petition has been filed through his father and Special Power of Attorney, Sukhvir Singh, for quashing of FIR No. 70, dated 26.8.2012 (Annexure P-2), for the offences punishable under Sections 323, 324 and 452 read with Section 34, IPC, registered at Police Station, Hariana, District Hoshiarpur, and all the consequential proceedings arising therefrom, on the basis of compromise, dated 21.9.2013 (Annexure P-4).

Vide order dated 9.4.2015, the affected parties were directed to appear before the learned Trial Court, for getting their respective statements recorded with regard to the compromise. The said Court was also directed to send a detailed report in that regard to this Court.

In compliance thereof, the affected parties did appear before learned Judicial Magistrate First Class, Hoshiarpur, and got recorded their respective statements with regard to the compromise.

Respondent No. 2/informant, Vivek Dadwal, suffered the following statement:-

“ Stated that a case FIR No. 70 dated 26.08.2012, under Sections 323, 324, 452, 34 of IPC, P.S. Haryana, was registered on my statement against petitioner Rajnish Kumar and others. The FIR and other consequent proceedings qua remaining accused have already been quashed by the Hon’ble High Court. I have compromised the matter with accused/petitioner Rajnish Kumar. The compromise is genuine, voluntary and without any threat, coercion or pressure. The original of the compromise effected between the parties is already attached with the petition filed before the Hon’ble High Court. The photocopy of the compromise is enclosed herewith and the same is mark ‘A’. I have no objection if the FIR and subsequent proceedings against the present petitioner is quashed and he is acquitted/discharged .”

The accused/petitioner, Rajnish Kumar, also suffered a similar statement admitting the factum of the compromise.

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

“ As per the statements suffered by the parties i.e. petitioner, respondent and witnesses to compromise mark-A, that they have compromised the matter, voluntarily, without any coercion or undue influence and is a genuine one and from the statement of the parties and witnesses to the compromise, the Court is

of the considered opinion that the parties have entered into a genuine compromise, voluntarily, and without any coercion or undue influence. Further in the present case FIR, challan was presented qua only accused Munish Kumar, Sukhvir Singh and the present petitioner/accused Rajnish Kumar was kept in column No. 2 of the challan and he was not challaned. Proceedings qua accused Munish Kumar and Sukhvir Singh have already been quashed by the Hon'ble High Court and they have been acquitted by the predecessor of this court vide order dated 29.10.2014. The accused-petitioner Rajnish Kumar was not declared as proclaimed offender by this court as the challan was not presented against him and he was kept in column No. 2 of report under Section 173 Cr.P.C.”

Learned counsel for the petitioner urged that on account of a trivial issue the quarrel had originated and the impugned FIR was registered against the petitioner and his co-accused. He further submits that the impugned FIR qua co-accused of the petitioner, namely, Munish Kumar and Sukhvir Singh, has already been quashed by a co-ordinate Bench of this Court, vide order dated 1.8.2014 (Annexure P-6), passed in CRM-M-8810-2014. He further submits that due to intervention of the respectable and elderly people of the society, the matter has been resolved between respondent No. 2/informant and the

petitioner and they have effected a compromise (Annexure P-4).

At present, there remains no dispute amongst the private parties. 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 judgment of Hon'ble the Supreme Court delivered in the case of **Gian Singh v. State of Punjab and another**, 2012 (4) R.C.R. (Criminal) 543 (SC), and 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 on instructions from ASI Tejinder Singh of Police Station, Hariana, District Hoshiarpur, has very fairly admitted that the impugned FIR qua co-accused of the petitioner has already been quashed; after going through the statements and the report received from learned Court below, he very fairly admits that the private parties have resolved their dispute and effected a compromise; and that he has no objection if the impugned FIR and all the consequential proceedings are quashed on the basis of the compromise.

Learned proxy counsel for respondent No.

2/informant submits that he has instructions to state at the bar that both the factions have resolved their dispute and effected the compromise. He further submits that respondent No. 2/informant did appear before learned Court below and suffered his statement and 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 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.

The report alongwith statements of the affected parties received from learned Court below would reveal that respondent No. 2/informant 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 **Gian Singh (supra)** and **Kulwinder Singh (supra)**, this petition is accepted and FIR No.

70, dated 26.8.2012 (Annexure P-2), for the offences punishable under Sections 323, 324 and 452 read with Section 34, IPC, registered at Police Station, Hariana, District Hoshiarpur, and all the consequential proceedings arising therefrom are hereby quashed.

(NARESH KUMAR SANGHI)
JUDGE

February 1, 2016
Pkapoor