

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-25030-2015
Date of Decision: January 7, 2016

Garish Khurana and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE NARESH KUMAR SANGHI

Present: Ms. Sushma Chopra, Advocate,
for the petitioners.

Mr. R.S. Randhawa, Addl. AG, Punjab,
for respondent No. 1.

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 Garish Khurana son of Ramji Dass and Sanjeev Kumar son of Bhag Ram, both residents of Jalandhar, for quashing of FIR No. 177, dated 18.12.2012 (Annexure P-1), for the offences punishable under Sections 120-B and 420, IPC, registered at Police Station, Goraya, District Jalandhar, and all the consequential proceedings arising therefrom, on the basis of

compromise/affidavit, dated 17.7.2015 (Annexure P-2).

Vide order dated 31.10.2015, 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 alongwith copies of the statements to this Court.

In compliance thereof, respondent No.2/informant/aggrieved person, Harmesh Kumar, and petitioner No. 1, Garish Khurana, did appear before learned Judicial Magistrate First Class, Phillaur, and got recorded their respective statements with regard to the compromise.

Respondent No. 2/informant/aggrieved person, Harmesh Kumar, suffered the following statement:-

“ I am complainant in the present case. I have compromised with accused Garish Khurana. The compromise is voluntarily and out of free will and pressure of any kind. I have made statement without any fear and pressure. All the claims between accused Garish Khurana and me have been settled and nothing is left between me and accused Garish Khurana. I have no objection if the present FIR is quashed. I have brought my RC with me, the photocopy of same is Ex. C-1.”

Petitioner No. 1, Garish Khurana also suffered similar statement admitting the factum of the compromise.

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

“ It is submitted that only complainant Harmesh Kumar and accused Garish Khurana appeared before this court. Sir, after perusal of the statements submitted by complainant Harmesh Kumar and accused Garish Khurana this court is of the view that voluntarily compromise has been arrived between complainant Harmesh Kumar and accused Garish Khurana which is without any pressure or fear. Compromise between complainant Harmesh Kumar and accused Garish Khurana is genuine and voluntary. However, as accused Sanjiv Kumar has not appeared before this court so no report regarding compromise between accused Sanjiv Kumar and complainant Harmesh Kumar can be given.”

Learned counsel submits that petitioner No. 1, Garish Khurana, and respondent No. 2/informant/aggrieved person, Harmesh Kumar, were in the business of potatoes. Initially, respondent No. 2/informant, Harmesh Kumar, filed a complaint against Garish Khurana (petitioner No. 1), Nikhil Khurana, Una Khurana and Jaswant Singh, for recovery of the due amount on account of the business of potatoes. The matter was inquired into by the Anti-fraud Staff, Jalandhar, and a case FIR No. 135, dated 19.9.2012, for the offences punishable under Sections 120-B, 406 and 420, IPC, was registered at Police Station, Goraya, District

Jalandhar. Thereafter, the matter was compromised with the intervention of the respectable and elderly people of the society. As per said compromise, two cheques of different dates, for total sum of rupees ten lacs were given to respondent No. 2 and for payment of remaining amount 10.11.2013 was fixed as the final date. The responsibility of the payment was taken by petitioner No.2, Sanjeev Kumar. It was also agreed that in the event of backing out of the compromise, petitioner No. 2, Sanjeev Kumar, would be liable for prosecution. Learned counsel further submits that on presentation of the cheques the same were not honoured, then respondent No. 2/informant again filed an application with the police and as a result thereof, present FIR has been lodged. She further states that now all the claims between petitioner No. 1/accused, Garish Khurana, and respondent No. 2/informant, Harmesh Kumar, have been settled and nothing is left between them. The said fact is clear from the perusal of the statement suffered by Harmesh Kumar before learned Court below. At present, there remains no ill-will amongst the private parties. He further submits that the offences alleged to have been committed by the petitioners were personal in nature and 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 her contentions, learned counsel has placed reliance on the judgments of Hon'ble the Supreme Court delivered in the cases of **Madan Mohan Abbot v. State of Punjab**, (2008) 4 SCC 582 and **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, after going through the statements and the report received from learned Court below, very fairly admits that the private parties have resolved their dispute and effected a compromise. He further fairly admits that the allegations levelled in the FIR would disclose that the offences alleged to have been committed by the petitioners are personal in nature. He further submits that he 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 finds that the present criminal litigation had arisen out of a business transaction and the allegations levelled in the FIR and the offences alleged to have been committed by the petitioners were personal in nature.

Both the private parties have resolved their dispute and effected a compromise and, as such, there remains no dispute between them. In the facts and circumstances of the case, pendency of the present criminal litigation would be abuse of process of law since the chances of conviction of the petitioners are bleak in view of the compromise so effected between the private parties.

In the matter of **Madan Mohan Abbot (supra)**, Hon'ble the Supreme Court has held as under:-

"We need to emphasise that it is perhaps advisable that in disputes where the question involved is of a purely personal nature, the court should ordinarily accept the terms of the compromise even in criminal proceedings as keeping the matter alive with no possibility of a result in favour of the prosecution is a luxury which the courts, grossly overburdened as they are, cannot afford and that the time so saved can be utilized in deciding more effective and meaningful litigation. This is a common sense approach to the matter based on ground of realities and bereft of the technicalities of the law."

In the matters of **Gian Singh (supra)** and **Kulwinder Singh (supra)**, it was ruled that in a petition under Section 482, Cr.P.C., filed on the basis of compromise, even the non-compoundable offences can be permitted to be compounded and criminal proceedings may terminate.

The report alongwith statements of the affected parties received from learned Court below would reveal that respondent No. 2/informant/aggrieved person has genuinely effected a compromise 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 **Madan Mohan Abbot (supra)**, **Gian Singh (supra)** and **Kulwinder Singh (supra)**, this petition is accepted and FIR No. 177, dated 18.12.2012 (Annexure P-1), for the offences punishable under Sections 120-B and 420, IPC, registered at Police Station, Goraya, District Jalandhar, and all the consequential proceedings arising therefrom are hereby quashed.

January 7, 2016
P Kapoor

(NARESH KUMAR SANGHI)
JUDGE