

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.

CRM-M-2769-2017

Date of Decision: 08.8.2017

Ajmer Singh and others

..Petitioners

versus

State of Punjab and another

..Respondents

CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Munish Gupta, Advocate, for the petitioners.

Mr. Rana Harjasdeep Singh, Assistant Advocate General,
Punjab for respondent no.1.

Mr. M.S.Longia, Advocate, for respondent no.2.

RAMENDRA JAIN, J.(ORAL)

Through this petition under section 482 of the Code of Criminal Procedure, prayer has been made for quashing FIR No.133 dated 12.08.2012 registered under Sections 323,324,325,326, 506 and 34 IPC, at Police Station Sadar Khanna, District Ludhiana, order dated 29.4.2014 (Annexure P-2), whereby petitioner no.3 Jaspinder Singh @ Jaspinder Singh Aujla, was declared as a Proclaimed Offender and all consequential proceedings arising therefrom on the basis of compromise dated 23.12.2016 (Annexure P-3).

Vide order dated 27.01.2017, the parties were directed to appear before the trial court to get their statements recorded with a direction to send a report to this court whether any accused is proclaimed offender and whether the compromise is genuine, voluntary and without any coercion or undue influence.

Consequently, the parties appeared before the trial court and

got their statements recorded. The report from Addl.Civil Judge (Senior Division), Khanna, has been received vide letter No.111 dated 18.3.2017 duly forwarded by learned District and Sessions Judge, Ludhiana, vide covering letter. No.1322/EC dated 18.3.2017. According to the report, complainant Tarlochan Singh made a statement to the effect that he has entered into a compromise with the accused, namely, Ajmer Singh, Devinder Singh and Jaspinder Singh voluntarily and without any pressure or coercion. He has no objection if the FIR is quashed. Similarly, Charanjit Kaur, who is the mother and power of attorney of accused Jaspinder Singh, residing abroad, has suffered a statement that the aforesaid FIR was lodged against her son Jaspinder Singh by complainant Tarlochan Singh and she has entered into a compromise with him voluntarily and without any pressure. Moreso, Inspector Hardevpreet Singh has made a statement that as per the record, FIR No.133 dated 12.8.2012 was registered against three persons, namely, Devinder Singh, Ajmer Singh and Jaspinder Singh and none of them has been declared as Proclaimed Offenders till date. His statement was recorded on 14.3.2017. After recording the statements of the parties, the trial court opined that “ *the matter has been compromised between the complainant and the accused voluntarily and without any pressure. Furthermore, as per the statement of Inspector Hardevpreet Singh, three persons, namely, Devinder Singh, Ajmer Singh and Jaspinder Singh are arrayed as accused in FIR No.133 dated 12.8.2012 and none of them has been declared as proclaimed offender till date.*”

A perusal of order dated 29.4.2014 (Annexure P-2) clearly spells out that petitioner no.3 was declared as Proclaimed Offender and till date, no further order has been produced, vide which the aforesaid order

dated 29.4.2014 (Annexure P-2) declaring petitioner no.3 as Proclaimed Offender has been set aside, therefore, the report of the Sub Divisional Judicial Magistrate, Khanna, being contradictory to the statement of Inspector Hardevpreet Singh made on 14.3.2017 that none of the accused persons has been declared Proclaimed Offenders, is wrong and illegal.

This court in the case of Rajinder Singh @ Rajinder Kumar versus State of Haryana and another 2003(1) RCR (Criminal) 123, while quashing of criminal proceedings in a petition by a proclaimed offender held that a proclaimed offender can not be granted indulgence, but having regard to the version of the complainant himself on oath before the court, no purpose would be served by continuing the proceedings.

Hon'ble the Supreme Court in the case of Mrs. Shakuntala Sawhney v. Mrs. Kaushalya Sawhney and others reported as (1980) 1 SCC 63, held as under:-

“29 No embargo, be in the shape of Section 320(9) of the Cr.P.C or any other such curtailment, can whittle down the power under Section 482 of the Cr.P.C.”

While relying on the aforesaid judgment of the Apex Court, this Court in the case of Jobanjit Singh versus State of Punjab and others (crl.Misc.No.10033 of 2009, decided on 29.7.2009) quashed the proceedings declaring the petitioner as proclaimed offender by observing as under:-

“ Keeping in view the enunciation of law as referred to above and applying the same to the facts and circumstances of the present case, once the matter has been compromised between the parties, no useful purpose will be served by proceeding

with the prosecution. Accordingly, order dated 23.12.2000 passed by the Judicial Magistrate 1st Class, Ropar (Annexure P-3) declaring the petitioner as proclaimed offender, FIR No.38 dated 5.7.2000, registered at Police Station Chamkaur Sahib, District Ropar, under Sections 323,325,341, 148 and 149 IPC (Annexure P-1) and all subsequent proceedings arising therefrom are quashed qua the petitioner.”

Considering the settled proposition of law, referred-to-above, even petitioner no.3 Jaspinder Singh, presently residing abroad, though was declared as a proclaimed offender, but in the considered opinion of this court, there is no impediment to accept the compromise (Annexure P-3) entered into between the parties and quash the FIR, especially when the parties, in order to maintain harmonious relationship, have entered into a compromise with the intervention of the relatives and respectables of the village.

Accordingly, the present petition is allowed and FIR No.133 dated 12.8.2012 registered under Sections 323,324,325,326, 506 and 34 IPC at Police Station Sadar Khanna, District Ludhiana; order dated 29.4.2014 (Annexure P-2), whereby petitioner no.3 Jaspinder Singh @ Jaspinder Singh Aujla was declared as a Proclaimed Offender and all consequential proceedings arising therefrom, on the basis of compromise dated 23.12.2016 (Annexure P-3) are quashed qua the petitioners in this case only.

08.08.2017
jitender sharma/VK

(RAMENDRA JAIN)
JUDGE

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| 1. | Whether speaking/reasoned | Yes/No |
| 2. | Whether Reportable | Yes/No |