

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-M-2770-2017

Date of Decision: 08.8.2017

Davinder Singh and another ..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 of cross-case/DDR dated 23.8.2011 (Annexure P-2) in FIR No.99 dated 22.08.2011 registered under Sections 323,324, 452 and 34 IPC at Police Station Sadar Khanna, District Ludhiana, report under section 173, Cr.P.C dated 22.5.2012 (Annexure P-3); order dated 30.11.2013 (Annexure P-4), whereby petitioner no.2 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-5).

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 as to number of persons arrayed as accused in FIR; 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 Judicial Magistrate 1st Class, Khanna bearing No.501 dated 02.3.2017 duly forwarded by learned District and Sessions Judge, Ludhiana, vide covering letter. No.1271/EC dated 02.3.2017 has been received. According to the report of the trial Magistrate, two persons, namely, Davinder Singh and Jaspinder Singh were arrayed as accused in the present case. Out of whom, accused Jaspinder Singh was declared as proclaimed offender.

Complainant Tarlochan Singh has made a statement to the effect that he has entered into a compromise with the accused, namely, Devinder Singh and Jaspinder Singh @ Jaspinder Singh Aujla voluntarily and without any pressure or coercion. He has no objection if the FIR is quashed.

Smt. Charanjit Kaur, who is the mother and power of attorney of petitioner no.2 Jaspinder Singh, has made a statement that her son Jaspinder Singh @ Jaspinder Singh Aujla, presently settled in Italy, is not in a position to appear personally in the instant case. He has nominated her as his attorney to act on his behalf vide special power of attorney dated 13.1.2017. She has compromised the matter with complainant Tarlochan Singh on behalf of her son Jaspinder Singh Aujla, without any pressure or coercion and with her own sweet will.

After recording the statements of the parties, the trial Magistrate opined that *“complainant and power of attorney holder of accused stated that they have compromised with each other without any*

pressure, any coercion or undue influence and they have no objection if FIR no.99 dated 22.8.2011 under sections 323, 324, 452 and 34 IPC, PS Sadar Khanna registered against the accused persons is quashed. The compromise was duly written and on the said compromise, parties identified their signature on the compromise which is placed on record Ex.C1. Copy of power of attorney is Ex.C2.”

“From the statements of the parties, it appears that compromise has been entered into voluntarily and without any pressure or coercion upon the parties.”

A perusal of order dated 30.11.2013 (Annexure P-4) passed by the trial court shows that petitioner no.2, namely, Jaspinder Singh was declared as a proclaimed offender and till date, no further order has been produced, vide which the aforesaid order declaring petitioner no.2 as a proclaimed offender, has been set aside. But this court is of the view that once the matter has been compromised between the parties amicably, no useful purpose would be served to continue with the proceedings. In order to fortify this view, I find support from the law laid down by this court as also the Apex Court which are as follows:-

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.2 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-5) 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 cross-case/DDR dated 23.8.2011 (Annexure P-2) in FIR No.99 dated 22.08.2011 registered under Sections 323,324, 452 and 34 IPC at Police Station Sadar Khanna, District Ludhiana, report under section 173 Cr.P.C dated 22.5.2012 (Annexure P-3); order dated 30.11.2013 (Annexure P-4), whereby petitioner no.2 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-5) are quashed qua the petitioners 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 |