

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

238

CRM-M-38531 of 2015

Date of Decision:06.11.2017

Saroop Singh and another

.....Petitioners

Versus

State of Punjab and another

.....Respondents

CORAM: HON'BLE MR.JUSTICE HARI PAL VERMA.

**Present: Mr. Jaswinder Singh Bagga, Advocate,
for the petitioners.**

Mr.M.S.Nagra, A.A.G., Punjab.

**Mr. Harmanjit Singh Thiara, Advocate,
for respondent No.2.**

HARI PAL VERMA, J.(Oral)

Prayer in this petition filed under Section 482 Cr.P.C. is for quashing of F.I.R. No.151 dated 27.06.2013 under Sections 406, 420 and 120-B IPC, registered at Police Station Navi Baradari, Jalandhar City and all subsequent proceedings arising therefrom on the basis of compromise arrived at between the parties vide memorandum of understanding dated 05.03.2015 (Annexure P-7).

Challenge in this petition has also been made to the order dated 21.04.2014, whereby proceedings for declaring the petitioners as proclaimed offenders were initiated.

This Court vide order dated 28.08.2017 had directed the parties to appear before the Illaqa Magistrate/trial Court to get their

statements recorded and the learned Magistrate was directed to send its report qua the genuineness of the compromise.

Pursuant to the aforesaid order, parties have appeared before learned Judicial Magistrate 1st Class, Jalandhar and got their statements recorded. On the basis of the statements so recorded, learned Magistrate has submitted report dated 18.10.2017 to the effect that the parties have compromised the mater with the intervention of the respectables and their compromise is voluntarily and without any pressure.

As per order dated 21.04.2014 (Annexure P-6), the petitioners were declared absconder from law as per amended provisions of Sections 82/83 Cr.P.C.

Learned counsel for the petitioners has argued that once the matter has been compromised between the parties, FIR in question is liable to be quashed. He has relied upon the judgment of this Court in case **Balbir Singh Versus State of Punjab and another, 2011 (3) R.C.R. (Criminal) 234**, to contend that in respect of a person who has been declared a proclaimed offender, no doubt, the FIR is not normally to be quashed ordinarily. However, in the case in hand, the dispute between the parties is primarily of civil in nature and therefore, merely because the petitioners were declared as proclaimed offenders, there is no impediment to quash the proceedings on the basis of compromise. The petitioners being NRIs were out of India when the proceedings under Sections 82/83 Cr.P.C. were initiated. The moment they became

aware of such proceedings, they surrendered to the jurisdiction of the Court and filed the present petition seeking quashing of FIR on the basis of compromise. As the petitioners were not in India at the time of registration of FIR, the present FIR is not maintainable and the same is liable to be quashed. He has also relied upon a judgment of this Court in CRM-1010 of 2017 decided on 01.06.2017 in **Bal Krishan Saini and others Versus State of Punjab and another** and judgment of the Hon'ble Supreme Court in **Madan Mohan Abbot Versus State of Punjab**, 2008 (2) R.C.R. (Criminal) 429, wherein Hon'ble the Apex Court has held that in compounding of offence, Court should ordinarily quash criminal proceedings where the parties have entered into compromise and no public policy was involved. In the instant case, the dispute between the parties is of a civil in nature.

On the other hand, learned counsel for the State has referred the judgment of the Hon'ble Apex Court in Criminal Appeal No.1723 of 2017 arising out of SLP (Crl.) No.9549 of 2016 decided on 04.10.2017 in **Parbatbhai Aahir @ Parbatbhai Bhim Singh Bhai Karmur and others Versus State of Gujarat and another**, to contend that in exercise of power under Section 482 Cr.P.C. and while dealing with a plea that the dispute has been settled, the High Court must have due regard to the nature and gravity of the offence. Heinous and serious offences involving mental depravity or offences such as murder, rape and dacoity cannot appropriately be quashed though the victim or the family of the victim have settled the dispute. He has

further argued that since the proceedings under Sections 82/83 Cr.P.C. were initiated against the petitioners, so, the FIR should not be quashed.

I have heard the learned counsel for the parties.

So far as the judgment relied upon by learned State Counsel in Parbatbhai Aahir's case (supra), there is no dispute that the FIR cannot be quashed in a mechanical manner. However, in the case of Parbatbhai Aahir's case (supra), the appellants were absconding and warrants had been issued against them under Section 70 of the Code of Criminal Procedure, 1973. Secondly, the appellants in that case had criminal antecedents, as is reflected in the chart which has been extracted in the judgment. As per chart so reproduced in the judgment, there are as many as six cases registered against the accused. Therefore, this Court finds that the said judgment is not applicable for quashing the FIR in the present case.

The petitioners being NRIs, were not served in the case and secondly, the nature of dispute between the parties is more or less civil in nature. No other case has been pointed out against the petitioners. Even otherwise, complainant-Ishar Dass has made a statement before the learned Judicial Magistrate 1st Class on 03.10.2017. The same reads as under:-

“Stated that criminal case vide FIR No. 151 dated 27.06.2013, registered under Sections 406, 420, 120 B IPC, PS Navi Baradari, Jalandhar has been registered against Saroop Singh son of Jiwan Singh r/o House No. 1922, Sector 32 A Chandigarh Road, Ludhiana at

present resides at 8125, 19th Avenue Burnabay B.C., Canada and Simrat Kaur Vilkhū w/o Mohan Singh Vilkhū resident of House No. 14, Jagjit Park Kapurthala at present resides at 8125, 19th Avenue Burnabay B.C., Canada. That quashing petition before the Hon'ble Court has been filed by Saroop Singh and Simrat Kaur Vilkhū through their attorney Smt. Jaspreet Kaur w/o Sh. Jaswinder Singh r/o 1922 Sector 32 A Chandigarh Road, Ludhiana. That vide order dated 28.08.2017 in CRM-M-38531-2015, the Hon'ble High Court has directed to record the statement before the trial court. With the intervention of respectables, the matter in dispute is compromised between me and the accused. Original MOU is filed in the Civil Suit bearing No. 739/2015 titled as Ishar Dass vs. Saroop Singh and another decided by the court of Sh. Arun Shori, Ld. CJJD, Jalandhar and copy of the same is Mark A upon which I identify my signatures. The MOU mark A is genuine, voluntary, without any coercion and undue influence. Same is effected with my free will, sound disposing mind without any pressure. I have no objection if the above-said FIR be quashed on account of MOU Mark A. Copy of myself attested ID Card i.e. Aadhar Card Ex.C1. There are two persons arrayed as accused in FIR No. 151 dated 27.06.2013. Both accused Saroop Singh and Simrat Kaur are declared proclaimed offenders vide order dated 28.07.2016.”

Therefore, having regard to the statement as well as the judgments referred here-in-above and in view of the law laid down by the Full Bench judgment of this Court in ***Kulwinder Singh and others***

Versus State of Punjab and another 2007 (3) RCR (Criminal) 1052

and approved by the Hon'ble Supreme Court in *Gian Singh Versus State of Punjab and others (2012) 10 SCC 303*, the petition is allowed and F.I.R. No.151 dated 27.06.2013 under Sections 406, 420 and 120-B IPC, registered at Police Station Navi Baradari, Jalandhar City and all subsequent proceedings arising therefrom including order dated 21.04.2014 declaring them proclaimed offenders are quashed qua the petitioners on the basis of compromise arrived at between the parties vide memorandum of understanding dated 05.03.2015 (Annexure P-7).

Since the Govt. machinery was set into motion, therefore, this Court finds that the petitioners deserve to be burdened with some costs. Accordingly, the petition is allowed, however, subject to payment of costs of ₹20,000/- to be deposited with Punjab State Legal Services Authority at Jalandhar, within a period of one month from today, failing which, the present petition shall deemed to be dismissed.

November 06, 2017
seema

(HARI PAL VERMA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No