

IN THE PUNJAB & HARYANA HIGH COURT AT CHANDIGARH

Date of decision : 13.02.2017

1.

CRM-M-39838-2015

Sanjay and others

... Petitioners

Versus

State of Haryana and another

... Respondents

2.

CRR-3530-2016

Vikas

... Petitioner

Versus

State of Haryana and another

... Respondent

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr.B.S.Rathee, Advocate
for the petitioner(s).

Mr.Sharad Kumar Yadav, DAG, Haryana.

Mr.Dinesh Maurya, Advocate
for Mr.G.S. Sidhu, Advocate
for respondent no.2.

AMOL RATTAN SINGH, J.(ORAL)

CRM-M-39838-2015

By this petition, quashing of FIR No.168 dated 30.04.2012
registered at Police Station Assandh, District Karnal, for the alleged

34 IPC and Section 25 of the Arms Act, is sought on the basis of a compromise stated to have been reached between the petitioners herein and respondent no.2, i.e. the complainant, who is stated to have been injured in the occurrence.

Upon notice having been issued on 27.11.2015, the parties were also directed to appear before the learned trial Court, which was also directed to record their statements and send its report qua the genuineness of compromise stated to have been reached between the parties.

The learned trial Court has submitted its report to the effect that the complainant-respondent no.2, Manjit Kaur, has admitted to the compromise, stating also that since she is closely related to the family of the accused-petitioners “she has no grudge against them and that the animus has been buried”. It has further been stated in the report of the learned trial Court that upon that Court having asked the SHO of the Police Station to also verify about the credibility of Manjit Kaur, she is supposed to have stated before the police that she had not seen the accused firing on the day of the occurrence and that she had named petitioners, Sanjay, Vikas son of Ranbir and Vikas son of Krishan, as also Anand and Jagbir, only on the basis of suspicion and that she had not actually seen them firing on the day of the occurrence.

Obviously, she has stated something different before the police to what she actually testified before the Court as PW1. Though, no doubt it is also equally obvious, at least on a reading of the report of the trial Court, that the matter has been fully compromised between the parties, however the fact remains that the complainant did undergo two fire arm injuries on her shoulder and in the opinion of this Court, in terms of the guidelines laid

down by the hon'ble Supreme Court in *Narinder Singh and others Vs. State of Punjab and another, 2014(2) RCR (Criminal) 482*, this Court would not overlook that fact, with a fire arm injury being, again in the opinion of this Court, an offence against society.

Hence, with the aforesaid allegations, the FIR cannot be quashed.

Learned counsel for the petitioners has cited a judgment of the hon'ble Supreme Court in *Yogendra Yadav & others vs. The State of Jharkhand & another* (Criminal Appeal no.1205 of 2014 decided on 21.07.2014), in which case also an offence under Section 307 IPC along with other lesser offences was shown to have been made out, wherein eventually the hon'ble Supreme Court accepted the compromise between the parties and eventually, relying upon the judgment in *Gian Singh vs. State of Punjab and others (2012) 10 SCC 303*, quashed the criminal proceedings.

The aforesaid judgment is seen to be delivered on 21.07.2014 after the judgment in *Narinder Singhs'* case aforesaid, which was delivered on 27.03.2014, laying down the principle which this Court is required to follow before taking a decision on whether an FIR is to be quashed on the basis of a compromise, or not.

Therefore, the judgment in *Yogendra Yadavs'* case was obviously rendered by the hon'ble Supreme Court, exercising its jurisdiction under Section 142 of the Constitution of India, to do complete justice between parties.

Keeping in view what has been observed hereinabove, I do not find this to be an appropriate case where the FIR can be quashed, even on

the basis of the compromise shown to have been reached between the petitioners and respondent no.2. Consequently the petition is dismissed.

Even having held as above, the observation made hereinabove is only with regard to a fire arm having been discharged and the complainant shown to have received two fire arm injuries as per the MLR produced in Court today by learned State counsel. However, no observation has been made by this Court with regard to whether the said injuries are actually caused by the petitioners or anyone of them, which would be a matter to be gone into by the trial Court in the proceedings still pending before it.

Learned counsel for the petitioners however submits that actually only one injury is a fire arm injury and the other possibly being from the glass of the car etc.

No comment on the merits of the aforesaid statement is also made, one way or the other, which again is obviously subject matter of the trial.

CRR-3530-2016

By this petition, the order of the learned trial Court, dismissing an application under Section 311 Cr.P.C. seeking recalling of the complainant for re-examination as a witness, has been challenged.

This Court has dismissed the petition (CRM-M-39388 of 2015) seeking quashing of the FIR, on the ground that an offence which can be termed to be an offence against society, with a firearm having been allegedly used to cause injuries, has been made out in the FIR and as such, the FIR cannot be quashed.

In the present petition, the complainant is obviously sought to be recalled for cross-examination in view of the compromise reached, so as

to negate the earlier testimony already sworn by her before the learned trial Court.

In the opinion of this Court, such recalling, upon a witness having been won over, even by way of a compromise, in such an offence, cannot be allowed.

Consequently, without commenting upon the merits of the criminal proceedings pending before the trial Court against the petitioner in any manner whatsoever, leaving the trial Court to take its own decision after appraising the evidence led before it, this petition is also dismissed.

(AMOL RATTAN SINGH)
JUDGE

February 13, 2017.
Davinder Kumar

Whether speaking / reasoned	Yes/No
Whether reportable	Yes/No